

1977 Assembly Bill 219

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CHAPTER 125, Laws of 1977

AN ACT to amend 66.053 (1) (b), 111.31 (1), 111.32 (5) (a), 139.34 (1) (c) (intro.), 139.37 (1) (c) (intro.), 158.14 (2) (a), 159.14 (5) (c), 176.05 (9), 343.12 (2) (d) and (e), 343.64 (3), 343.65 (2), 343.66 (2) and (5), 343.67 (2), 440.26 (2) (c), (5) and (6), 443.01 (13) (a) 6, 446.03 (3), 449.07 (1), 450.02 (7) (a), 455.09 (1) (a) and 551.34 (1) (c); and to create 111.32 (5) (h) of the statutes, relating to discrimination in employment and licensing on the basis of arrest and conviction records.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.053 (1) (b) of the statutes is amended to read:

66.053 (1) (b) No license or permit ~~shall~~ may be granted to any person, unless to a domestic corporation, not a citizen of the United States and of this state and a resident of the town, village or city in which ~~such~~ the license is applied for, nor, subject to s. 111.32 (5) (a) and (h), to any person who has been convicted of a felony, unless ~~such~~ the person has been restored to civil rights.

SECTION 2. 111.31 (1) of the statutes is amended to read:

111.31 (1) The practice of denying employment and other opportunities to, and discriminating against, properly qualified persons by reason of their age, race, creed, color, handicap, sex, national origin ~~or~~, ancestry, arrest record or conviction record, is likely to foment domestic strife and unrest, and substantially and adversely affect the general welfare of a state by depriving it of the fullest utilization of its capacities for production. The denial by some employers, licensing agencies and labor unions of employment opportunities to such persons solely because of their age, race, creed, color, handicap, sex, national origin ~~or~~, ancestry, arrest record or conviction record, and discrimination against them in employment, tends to deprive the victims of the earnings which are necessary to maintain a just and decent standard of living, thereby committing grave injury to them.

SECTION 3. 111.32 (5) (a) of the statutes is amended to read:

111.32 (5) (a) "Discrimination" means discrimination because of age, race, color, handicap, sex, creed, national origin ~~or~~, ancestry, arrest record or conviction record, by an employer or licensing agency individually or in concert with others, against any employee or any applicant for employment or licensing, in regard to ~~his~~ hire, tenure or

term, condition or privilege of employment or licensing and by any labor organization against any member or applicant for membership, and also includes discrimination on any of said grounds in the fields of housing, recreation, education, health and social welfare as related to a condition or privilege of employment.

SECTION 4. 111.32 (5) (h) of the statutes is created to read:

111.32 (5) (h) The term "arrest record" includes, but is not limited to, information indicating that a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority. The term "conviction record" includes, but is not limited to, information indicating that a person has been convicted of any felony, misdemeanor or other offense, placed on probation, fined, imprisoned or paroled pursuant to any law enforcement or military authority. It is discrimination because of arrest record or conviction record:

1. For any employer, labor organization, licensing agency or employment agency to request an applicant, employe, member, licensee or any other person, on an application form or otherwise, to supply information regarding any arrest record, except a record of a pending charge, of the applicant, employe, member or licensee except that it shall not be discrimination to request such information when employment depends on the bondability of the employe or prospective employe under a standard fidelity bond or an equivalent bond is required by state or federal law, administrative regulation or established business practice of the employer and the employe may not be bondable due to an arrest record;

2. For any employer, labor organization, licensing agency or employment agency to refuse to hire, employ, admit or license any person, or to bar or terminate any person from employment, membership or licensing, or to discriminate against any person in promotion, compensation, terms, conditions or privileges of employment, membership or licensing, or otherwise to discriminate against any person because such person has an arrest record or a conviction record; provided, however, that it shall not be unlawful:

a. For an employer or licensing agency to refuse to employ or license, or to suspend from employment or licensing, any person who is subject to a pending criminal charge if the circumstances of the charge substantially relate to the circumstances of the particular job or licensed activity.

b. For an employer or licensing agency to refuse to employ or license, or to bar or terminate from employment or licensing, any person who has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity.

c. For an employer or licensing agency to refuse to employ or license, or to bar or terminate from employment or licensing, any person who is not bondable under a standard fidelity bond or an equivalent bond where such bondability is required by state or federal law, administrative regulation or established business practice of the employer.

SECTION 5. 139.34 (1) (c) (intro.) of the statutes is amended to read:

139.34 (1) (c) (intro.) Within the meaning of this section, subject to s. 111.32 (5) (a) and (h), a person may be regarded as or found to be a person not of good moral character when ~~he~~ that person:

SECTION 6. 139.37 (1) (c) (intro.) of the statutes is amended to read:

139.37 (1) (c) (intro.) Within the meaning of this section, subject to s. 111.32 (5) (a) and (h), a person may be regarded as or found to be a person not of good moral character when ~~he~~ that person:

SECTION 7. 158.14 (2) (a) of the statutes is amended to read:

158.14 (2) (a) ~~Conviction~~ Subject to s. 111.32 (5) (a) and (h), conviction of a felony or crime;

SECTION 8. 159.14 (5) (c) of the statutes is amended to read:

159.14 (5) (c) ~~Been~~ Subject to s. 111.32 (5) (a) and (h), been convicted of a crime which in the judgment of the examining board may be detrimental to the welfare of persons affected by this chapter;

SECTION 9. 176.05 (9) of the statutes is amended to read:

176.05 (9) **WHERE AND TO WHOM LICENSES NOT GRANTED.** No license or permit shall be granted to any person or persons under the age of 18 years for the sale of any such intoxicating liquors, or to any person who is not of good moral character and a full citizen of the United States and of this state and who has not resided in this state continuously for at least one year prior to the date of filing the application; nor, subject to s. 111.32 (5) (a) and (h), shall any such license be granted or issued to any person who has habitually been a petty law offender, or has been convicted of an offense against the laws of this state punishable by imprisonment in the state prison, unless the person so committed has been duly pardoned. ~~The provisions of this~~ This subsection shall not apply to a Wisconsin corporation; ~~such provisions apply~~ it applies, however, to all officers and directors of any such corporation.

SECTION 10. 343.12 (2) (d) and (e) of the statutes are amended to read:

343.12 (2) (d) ~~Has~~ Subject to s. 111.32 (5) (a) and (h), has not been convicted of reckless driving under s. 346.62, operating a motor vehicle while under the influence of an intoxicant or of a controlled substance under s. 346.63 (1) (a), or any of the offenses enumerated under s. 343.31 (1), within the 2-year period immediately preceding the date of application.

(e) ~~Has~~ Subject to s. 111.32 (5) (a) and (h), has not been convicted of a felony or offense against public morals within the past 5 years.

SECTION 11. 343.64 (3) of the statutes is amended to read:

343.64 (3) ~~Such~~ Subject to s. 111.32 (5) (a) and (h), such applicant or any officer, director, stockholder, partner or any person directly interested in the business has been an habitual petty law offender or has been convicted of an offense against the laws punishable as a felony, unless the person so convicted has been duly pardoned;

SECTION 12. 343.65 (2) of the statutes is amended to read:

343.65 (2) Such applicant has failed to furnish satisfactory evidence of the facts required of ~~him~~ the applicant, is not of good moral character, has not held a license to drive a motor vehicle within this state for the past year, has not had a driving record satisfactory to the administrator, or, subject to s. 111.32 (5) (a) and (h), has been convicted of a felony and has not been duly pardoned.

SECTION 13. 343.66 (2) and (5) of the statutes are amended to read:

343.66 (2) ~~The~~ Subject to s. 111.32 (5) (a) and (h), the licensee or any partner or officer of the licensee has been an habitual petty law offender or has been convicted of a felony;

(5) ~~The~~ Subject to s. 111.32 (5) (a) and (h), the licensee has knowingly employed, as an instructor, a person who has been an habitual petty law offender or has been convicted of a felony or has retained such a person in such employ after knowledge of his or her conviction; or

SECTION 14. 343.67 (2) of the statutes is amended to read:

343.67 (2) ~~The~~ Subject to s. 111.32 (5) (a) and (h), the licensee has been convicted of a felony or has been an habitual petty law offender;

SECTION 15. 440.26 (2) (c), (5) and (6) of the statutes are amended to read:

440.26 (2) (c) *Approval.* The department shall prescribe, by administrative rule, such standards of professional, educational and moral qualification as it deems appropriate, with due regard to investigative experience, special professional education

and training and other factors bearing on professional competence and trustworthiness. ~~No~~ Subject to s. 111.32 (5) (a) and (h), no person convicted of a felony in this state or elsewhere shall be eligible for a license for 5 years thereafter. The department, in considering applicants for license, shall seek the advice of the appropriate local law enforcement agency or governmental official, and conduct such further investigation, as it deems proper to determine the character, competence and integrity of the applicant.

(5) EXEMPTIONS; WATCHMAN AND GUARD PERMIT. This section shall not apply to any person employed, directly or indirectly by the state or municipality as defined in s. 345.05 (1) (a), or to any employe of a railroad company under s. 192.47, or employes of commercial establishments, who operate exclusively on their premises. An employe of any licensed agency doing business in this state as a supplier of uniformed security guards, uniformed police or uniformed watchmen to patrol exclusively on the private property of industrial plants, business establishments, schools, colleges, hospitals, sports stadiums, exhibits and similar activities shall be exempt from the license requirements of this section while engaged in such employment, if such person obtains a watchman and guard permit under this section. Such agency shall furnish upon request an up-to-date record of its employes to the chief of police or other local law enforcement official designated by the department for the municipality wherein such activities take place. Such record shall include the name, residence address, date of birth and a physical description of each such employe together with a recent photograph and 2 fingerprint cards bearing a complete set of fingerprints of such employe, and, subject to s. 111.32 (5) (a) and (h), no one person shall be eligible for a watchman and guard permit who has been convicted in this state or elsewhere of a felony within 5 years preceding his application. Such agency shall notify the chief of police or other designated official in writing within 5 days of any change of the residence address, or of the termination of employment of such person. A watchman and guard permit shall be issued or denied within 48 hours of application by the chief of police or other designated official. Such permit shall remain valid unless for just cause revoked by the chief of police or other designated official issuing the permit for just cause. Upon denial or revocation of a permit, appeal may be taken to the department. For each application for watchman and guard permit filed with the chief of police or other designated official the agency shall remit a fee of \$2 to the municipality issuing the permit.

(6) REVOCATION OF LICENSES AND PERMITS. If at any time a petition is presented to the department signed by 6 residents of this state requesting the revocation of a license or permit issued under this section, the department, after due notice, shall conduct a hearing and based upon the evidence presented take such action as is appropriate. If at any time such licensee or holder of a permit is convicted of a felony, subject to s. 111.32 (5) (a) and (h), or if he or she engages in conduct reflecting adversely on his or her professional qualification, or makes a false statement in any application for a license or permit, the department after notice, hearing and proof thereof, shall revoke such license.

SECTION 16. 443.01 (13) (a) 6 of the statutes is amended to read:

443.01 (13) (a) 6. Conviction of a felony, subject to s. 111.32 (5) (a) and (h), or adjudication of mental incompetency by a court of competent jurisdiction, a certified copy of the record of conviction or adjudication of incompetency to be conclusive evidence of such conviction or incompetency.

SECTION 17. 446.03 (3) of the statutes is amended to read:

446.03 (3) Is hereafter convicted in a court of competent jurisdiction, either within or without this state, or in federal court, of any violation of any law governing the practice of chiropractic or of any felony, subject to s. 111.32 (5) (a) and (h), a certified copy of the record of conviction to be conclusive evidence of such conviction;

SECTION 18. 449.07 (1) of the statutes is amended to read:

449.07 (1) The examining board, by order, may deny, suspend or revoke any license or certificate of registration if the licensee or registrant;

- (a) ~~obtained~~ Obtained the license or certificate through error or fraud;
- (b) ~~is~~ Is grossly incompetent;
- (c) ~~is~~ Is habitually drunk or addicted to the use of habit-forming drugs;

(d) ~~has~~ Has been convicted in a court of competent jurisdiction, either within or without this state, of any violation of any law governing the practice of optometry or of any felony, subject to s. 111.32 (5) (a) and (h), a certified copy of the record of conviction to be conclusive evidence of such conviction;

(e) ~~has~~ Has obtained or sought to obtain anything of value by fraudulent representation in the practice of optometry;

(f) ~~is~~ Is guilty of immoral or unprofessional conduct;

(g) ~~continued~~ Continued practice, knowingly having an infectious or contagious disease; or

(h) ~~if~~ If the applicant or registrant maintains a professional connection or association with any other person continuing to violate this chapter after 10 days' notice in writing by the examining board.

SECTION 19. 450.02 (7) (a) of the statutes is amended to read:

450.02 (7) (a) The examining board, upon notice and hearing, may suspend or revoke the registration of any person who is guilty of felony, subject to s. 111.32 (5) (a) and (h), or gross immorality, or who is addicted to alcoholic liquors or controlled substances to an extent affecting ~~his~~ fitness as a pharmacist, or who is otherwise unfit to practice as a pharmacist, or whose registration was secured by fraud or mistake or the giving of misinformation in any of the applications submitted to the examining board or who has been guilty of a violation of this chapter or ch. 161 or of violations of any of the rules of the examining board, or who has been guilty of acts of unprofessional conduct as defined in par. (b). No such revocation shall become effective until 20 days after notice of the decision of the examining board has been served upon the person accused. Decisions of the examining board under this section shall be subject to review as provided in ch. 227 and in case the provisions thereof are invoked by the accused within such 20-day period, ~~such~~ the order of revocation shall become effective only at such time as may be ordered by the court.

SECTION 20. 455.09 (1) (a) of the statutes is amended to read:

455.09 (1) (a) ~~Is~~ Subject to s. 111.32 (5) (a) and (h), is a felon.

SECTION 21. 551.34 (1) (c) of the statutes is amended to read:

551.34 (1) (c) ~~Has~~ Subject to s. 111.32 (5) (a) and (h), has been convicted, within the past 10 years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;