

Enrolled
Senate Bill 47

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CHAPTER

AN ACT

Relating to licensing power of Teacher Standards and Practices Commission; amending ORS 181.525, 342.143, 342.175, 342.203 and 670.280; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 342.175 is amended to read:

342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator or suspend or revoke the right of any person to apply for a license or registration if the *[person]* **licensee, registrant or applicant** has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

- (a) Conviction of a crime not listed in ORS 342.143 (3);
- (b) Gross neglect of duty;
- (c) Any gross unfitness;
- (d) Conviction of a crime for violating any law of this or any state or of the United States involving the illegal use, sale or possession of controlled substances;
- (e) Any false statement knowingly made in an application for issuance, renewal or reinstatement of a license or registration; or
- (f) Failure to comply with any condition of reinstatement under subsection [(3)] (4) of this section or any condition of probation under ORS 342.177 (3)(b).

(2) If a person is enrolled in an approved teacher education institution or program under ORS 342.147, the commission may issue a public reprimand or suspend or revoke the right to apply for a license or registration based on the following:

- (a) Conviction of a crime listed in ORS 342.143 (3) or a crime described by the commission by rule;**
- (b) Conviction of a crime for violating any law of this or any state or of the United States involving the illegal use, sale or possession of controlled substances; or**
- (c) Any conduct that may cause the commission to suspend or revoke the license or registration of a teacher.**

[(2)] (3) *[Notwithstanding ORS 670.280,]* The commission shall revoke any license or registration and shall revoke the right of any person to apply for a license or registration if the person has held a license or registration at any time *[within five years prior to issuance of the notice of charges under ORS 342.176 when]* **and** the holder or *[person]* **applicant** has been convicted of any crime described in ORS 342.143 (3).

[(3)] (4) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection [(4)] (5) of this section, any person whose license or registration has been suspended or revoked or whose privilege to apply for a license or registration has been revoked may apply to the commission for reinstatement of the license or registration after one year from the date of the suspension or revocation. The commission may require an applicant for reinstatement to furnish evidence satisfactory to the commission of good moral character, mental and physical health and such other evidence as the commission may consider necessary to establish the applicant's fitness. The commission may impose a probationary period and such conditions as it considers necessary upon approving an application for reinstatement.

[(4)] (5) The commission shall reconsider immediately a license or registration suspension or revocation or the situation of a person whose privilege to apply for a license or registration has been revoked, upon application therefor, when the license or registration suspension or revocation or the privilege revocation is based on a criminal conviction that is reversed on appeal.

[(5)] (6) Violation of rules adopted by the commission relating to competent and ethical performance of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

[(6)] (7) A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of a conviction described in this section.

SECTION 2. ORS 181.525 is amended to read:

181.525. Whenever any court or district attorney receives a disposition report and the court or district attorney has cause to believe that the arrested person who is the subject of the report is an employee of a school district or is licensed as a school teacher or administrator and that the charge involves a violation of any crime listed in ORS 342.143 (3) [or 342.175 (2)], the court or district attorney shall cause the Teacher Standards and Practices Commission and the Department of Education to be sent a copy of the completed disposition report.

SECTION 3. ORS 342.203 is amended to read:

342.203. (1) Annually not later than March 1, the Teacher Standards and Practices Commission shall cause to be circulated among all of the common and union high school districts and education service districts in this state a list of:

(a) All teachers and administrators whose teaching or administrative licenses have been suspended or revoked or who have been reprimanded or placed on probation during the preceding 12 months.

(b) All students at approved teacher education institutions or programs under ORS 342.147 whose right to apply for a license or registration has been suspended or revoked during the preceding 12 months.

(2) If the decision of the commission is appealed under ORS 342.180, the [teacher's or administrator's] name **of the teacher, administrator or student** shall not be placed on the list authorized by subsection (1) of this section unless and until such decision has been sustained by the Court of Appeals or until the appeal has been dropped.

SECTION 4. ORS 342.143 is amended to read:

342.143. (1) No teaching, personnel service or administrative license shall be issued to any person until the person has attained the age of 18 years and has furnished satisfactory evidence of proper educational training.

(2) The Teacher Standards and Practices Commission may require an applicant for a teaching, personnel service or administrative license or for registration as a public charter school teacher or administrator to furnish evidence satisfactory to the commission of good moral character, mental and physical health, and such other evidence as it may deem necessary to establish the applicant's fitness to serve as a teacher or administrator.

(3) Without limiting the powers of the Teacher Standards and Practices Commission under subsection (2) of this section [and notwithstanding ORS 670.280]:

(a) No teaching, personnel service or administrative license or registration as a public charter school teacher or administrator shall be issued to any person who:

(A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433, 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part), 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087, 167.007, 167.012, 167.017, 167.054, 167.057, 167.062, 167.075, 167.080, 167.090, 475.848, 475.852, 475.858, 475.860, 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or 475.906[;].

(B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in subparagraph (A) of this paragraph[; *or*].

(C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.

(D) Has had a teaching, personnel service or administrative license or registration revoked in another jurisdiction for a reason that is substantially equivalent, as defined by rule, to a reason described in ORS 342.175 and the revocation is not subject to further appeal. A person whose privilege to apply for a license or registration is denied under this subparagraph may apply for reinstatement of the privilege as provided in ORS 342.175 (4).

(b) The Teacher Standards and Practices Commission may refuse to issue a license or registration to any person who has been convicted of a crime involving the illegal use, sale or possession of controlled substances.

(4) In denying the issuance of a license or registration under this section, the commission shall follow the procedure set forth in ORS 342.176 and 342.177.

(5) The Department of Education shall provide school districts and public charter schools a copy of the list contained in subsection (3) of this section.

SECTION 5. ORS 670.280 is amended to read:

670.280. (1) As used in this section:

(a) "License" includes a registration, certification or permit.

(b) "Licensee" includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license.

(3) **Except as provided in ORS 342.143 (3) and 342.175 (3),** a licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards.

SECTION 6. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect July 1, 2009.

Passed by Senate February 11, 2009

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Secretary of Senate

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President of Senate

Passed by House May 29, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State