Summary

This bill allows certain ex-offenders to obtain a provisional, or probationary, occupational license if they are otherwise qualified. Research indicates that a person who has been law abiding for at least five years is at a low risk of re-offending. Also, according to the Federal Bureau of Prisons, ex-offenders who are employed are three to five times less likely to re-offend.

Model Legislation

Section 1. {Provisional License}

(A) Notwithstanding any other law and unless the applicant has been convicted of an offense described by Section 2, a licensing authority shall issue to an otherwise qualified applicant who has been convicted of a nonviolent offense not less than two years ago or a violent offense not less than four years ago:

(1) The license for which the applicant applied; or

(2) A provisional license.

(B) The provisional license shall be valid for a term of between 90 and 360 days, as specified by agency rule.

(C) The licensing authority may revoke a provisional license if the provisional license holder:

(1) Commits a new offense;

(2) Commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or

(3) Violates the law or rules governing the practice of the occupation for which the provisional license is issued.

(D) The licensing authority shall issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if the provisional license holder does not engage in conduct described by Subsection (C) of this Section.

(E) If the licensing authority revokes a provisional license under Subsection (C) of this Section, the provisional license holder is not entitled to receive another provisional license or a regular license for which the applicant originally applied, even if otherwise
qualified. The ability of such a person to subsequently obtain another such license in the future is within the discretion of the issuing agency.

(F) An applicant who is on community supervision and who is issued a provisional license under this section shall provide to the licensing authority the name and contact information of the probation or parole department to which the person reports. The licensing authority shall notify the probation or parole department that a provisional license has been issued. The probation or parole department shall notify the licensing authority if the person's community supervision is revoked during the term of the provisional license. The court shall also notify the agency if the person is charged with a new offense.

(H) If the person was convicted of an offense that involved robbery, residential burglary, or a home invasion of any kind within the last ten years and if the occupation is one in which a licensee regularly enters private residences, the provisional license must include a condition that the person only work under the accompanying supervision of another licensed individual who has no criminal record in all home visits and the supervising individual must sign a verifying affidavit. If the offense occurred more than ten years ago, the condition is discretionary with the agency. The regular license may include this condition as long as the agency determines it is warranted. The agency may conduct reasonable enforcement activities to ensure this supervision condition is complied with over the course of the license term.

(I) Nothing herein shall be implicitly interpreted to preclude an agency from exercising its existing discretion to issue a license to individuals not covered under this statute, except where precluded by another law.

Section 2. {Exemptions}

(A) This Act does not apply to a person convicted of homicide, an aggravated violent felony offense, a felony sex offense, or kidnapping.

(B) This Act does not apply to a person convicted of an offense involving fraud if the licensed occupation is one in which the licensee owes a fiduciary duty to a client.

(C) This Act does not apply to any occupation where the licensee would be supervising children or individuals who lack mental capacity without another licensee in the same room at all times.

(D) This Act does not apply to any initial or renewal license application where the applicant was convicted of committing an offense in the course of performing the duties of the occupation or a substantially similar occupation.

(E) If the licensing agency believes another exemption not provided herein is necessary in a specific case to protect the public from a clear and imminent danger, the agency may
seek declaratory relief in district court through a judicial order finding that the applicant should not be issued a regular or provisional license because it would pose such a danger.

Section 3. {Severability clause}

Section 4. {Repealer clause}

Section 5. {Effective date}