



Occupational Licensing: Consequences of Criminal Convictions

Contents

The TCEQ and Occupational Licenses	3
Criminal Convictions and Occupational Licenses	3
Prospective Applicants that Have a Criminal Conviction.....	4
Responsibilities of Applicants (Initial or Renewal)	5
Processing Applications (Initial or Renewal).....	6
Current Licenses	8
Reviewing Criminal Histories	10
Specific Considerations, by Type of License	11

TCEQ Occupational Licenses

1. Backflow Prevention Assembly Tester (BPAT)
2. Customer Service Inspector (CSI)
3. Landscape Irrigation Technician, Irrigator, Irrigation Inspector
4. On-Site Sewage Facility (OSSF) Apprentice, Designated Representative, Installer, Maintenance Provider, Site Evaluator
5. Water Treatment Specialist (WTS)
6. Leaking Petroleum Storage Tank (LPST) Corrective Action Specialist, Project Manager
7. Underground Storage Tank (UST) Contractor, On-Site Supervisor
8. Municipal Solid Waste (MSW) Facility Supervisor
9. Public Water System (PWS) Operator
10. Wastewater System Operator

For more information:

website: www.tceq.texas.gov/licensing

e-mail: licenses@tceq.texas.gov

phone: 512-239-6133

These guidelines are being issued pursuant to
Texas Occupations Code 53.025(a).

The TCEQ and Occupational Licenses

We, the Permitting and Registration Support Division of the Texas Commission on Environmental Quality, or TCEQ, are responsible for issuing licenses that you must have in order to engage in certain occupations in Texas that may have an environmental impact. (The box on the facing page lists the 10 basic categories of occupational licenses that the TCEQ administers.)

There are a number of requirements that you must fulfill before we can grant you a license. There are also certain restrictions related to criminal convictions.

These guidelines outline the possible consequences of having a criminal conviction on your ability to obtain and hold an occupational license, as well as your responsibilities in this regard.

They also describe the general factors that we consider when we review criminal histories, as well as how particular categories of crime may relate to each occupational license.

Nothing in this publication is intended to contradict any federal or state statute, rule, or regulation. In case of any apparent contradiction, the statute, rule, or regulation is authoritative.

For more information regarding all the different requirements for occupational licenses, see our Occupational Licensing Web page, at www.tceq.texas.gov/licensing.

Criminal Convictions and Occupational Licenses

If you have a criminal conviction above a Class C misdemeanor, you might not be qualified to hold one of our licenses.

Convictions that May Trigger a Denial

The criminal convictions that are grounds to deny an application for a license (or to revoke a license) include, but are not limited to:

- misrepresentation (e.g., fraud, extortion, bribery, theft by check, and deceptive business practices)
- failure to register as a sex offender (as required by the Texas Code of Criminal Procedure, Chapter 62)

- property crimes, such as theft or burglary
- crimes against persons, such as homicide, kidnapping, and assault
- violations of environmental law

Possible Consequences

In the event of a criminal conviction, we might take one of the following courses of action:

- Declare a prospective applicant unsuitable for a license.
- Deny a renewal application for an existing license.
- Revoke or suspend an existing license.

Prospective Applicants who Have a Criminal Conviction

(30 TAC 30.13)¹

Evaluation Request

If you are a prospective applicant for an occupational license **and do not currently hold a license issued by the TCEQ**, and think that you might be ineligible for the license because of an arrest or a conviction—including cases that may be pending, deferred, or dismissed—for a felony or a misdemeanor above a Class C, you should request an evaluation of your criminal history by filling out and submitting an Evaluation of Criminal Charge(s)/Conviction(s), Form TCEQ-20750, available online at www.tceq.texas.gov/assets/public/licensing/supplemental/criminal-charges-evaluation.pdf; by e-mailing licenses@tceq.texas.gov; or by calling 512-239-6133. This evaluation request must include all arrests or convictions in any state or country, including cases that may be pending, deferred, or dismissed.

You should request this evaluation before enrolling in an educational program that prepares you for a license or before taking an examination for a license.

Background Check and Determination

When we receive your request for an evaluation of your criminal history, we will first check your criminal background with the records of the

¹ Short for 'Title 30, Texas Administrative Code, Section 30.13.'

Texas Department of Public Safety (DPS) or other applicable data systems. We will then make a determination as to whether there are grounds for ineligibility.

Notification

We will notify you in writing of our determination no later than the 90th day after the date that we received the evaluation request.

If the determination is that you are ineligible for a license, we will explain the basis for this determination.

Our determination will be final.

Re-Evaluation

At any time, if we discover pertinent new facts, we may re-evaluate your eligibility and issue a new determination letter.

Responsibilities of Applicants (Initial or Renewal) (30 TAC 30.34)

Criminal Attestation

When you apply for an occupational license, whether it's a new license or a renewal, you must submit a criminal attestation as part of your application package. A "criminal attestation" is a statement in which you certify that you do or do not have a history of arrest or criminal conviction.

If you do have arrests or criminal convictions in your record, you must report your criminal history as part of your attestation. This "criminal history" must include all arrests or convictions in any state or country, including cases that may be pending, deferred, or dismissed.

Initial Applicants

If you are applying for an initial license, your application package must be submitted on paper, either by fax or mail. The application package must include your criminal attestation.

To generate your attestation, fill out our Criminal Charges/Conviction Attestation form. This form is available online, from the "Criminal

History Notification” Web page (<www.tceq.texas.gov/goto/convictionnotification>).

Renewal Applicants

If you are applying for a renewal of a current license, you must submit your entire application package either on paper or online.

So if you are submitting it online, you should submit your attestation online as well, on our “Criminal History Notification” Web page (<www.tceq.texas.gov/goto/convictionnotification>).

Applicants with a Criminal History

Letters of Recommendation

If you are applying for a license and you have a criminal history, you also have the responsibility, when requested, to obtain and provide to us letters of recommendation from the attorneys for the prosecution, law-enforcement officers, and correctional authorities or other evidence of fitness to hold a license.

Proof of Compliance

As an applicant with a criminal history, you also have the further obligation, when requested, to furnish proof in the designated form that you have complied with all of the following obligations:

1. Maintained a record of steady employment.
2. Supported your dependents.
3. Maintained a record of good conduct.
4. Paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which you have been convicted.
5. Completed any other obligations imposed by the court.

Processing Applications (Initial or Renewal) (30 TAC 30.33)

If we discover that you, the applicant, have a criminal conviction, we may deny your application.

Background Check and Determination

When we receive your application for any license (initial or renewal), we will first check your criminal background with the records of the DPS or other applicable data systems. We will then make a determination as to whether there are grounds for denying the application.

Option 1: Grant the License

If we determine that there are no grounds for denying the application, we will complete the processing of the application and issue the license.

Option 2: Send a Letter of Intent to Deny

If we determine that there are grounds for denying the application, we will notify you in writing of our intent to deny the application. The notification letter will have three principal elements. It will:

1. Clearly identify the convictions that form the basis of the proposed denial.
2. Cite the TCEQ rule and statutory authority for the proposed denial.
3. Advise you of your right to request a hearing to challenge the proposed denial.

Right to Request a Hearing

In accordance with the Texas Administrative Code (30 TAC 30.33[a][2]), an applicant has the right to request a hearing on the agency's intent to deny the application.

Requesting a Hearing

If you decide to request a hearing, you must:

1. Make your request in writing.
2. Include your name, address, and phone number.
3. Make sure that your request is received by our Office of the Chief Clerk no later than 30 calendar days after the date the "intent to deny" notification was issued. You should send your request to the Office of the Chief Clerk at one of the following addresses:

By U.S. Mail:
Office of the Chief Clerk, MC 105
TCEQ
PO Box 13087
Austin TX 78711-3087

In person or by courier:
Office of the Chief Clerk
TCEQ
12100 Park 35 Circle, Bldg. F
Austin TX 78753

By fax:
512-239-3311

(*Note: If using fax, the original must be mailed or hand delivered to the chief clerk and received within three business days.*)

The Hearing Process

If you request a hearing, we will schedule one for you. The hearing will be conducted by an administrative law judge (ALJ) with the State Office of Administrative Hearings. After the hearing, the ALJ will issue a Proposal for Decision for consideration by the TCEQ. We, the TCEQ, will ultimately decide whether the license application should be denied.

In accordance with the Texas Administrative Code (30 TAC 30.37[a]), if your application is denied after a hearing, you may appeal to the district court in Travis County (in Austin) for review of the evidence presented to the TCEQ and of the TCEQ's decision. The petition must be filed no later than the 30th day after the date of the TCEQ's decision.

Re-Evaluation

At any time, if we discover pertinent new facts, we may re-evaluate your eligibility and issue a new determination letter.

Current Licenses (30 TAC 30.33)

If you have a current license when we discover that you have a criminal conviction, we may suspend or revoke your license.

Background Check and Determination

If you have a current license when we discover that you have a criminal conviction, we will first check your criminal background with the records of the DPS or other applicable data systems. We will then make a determination as to whether there are grounds for suspending or revoking the license.

Option 1: Let the License Remain in Effect

If we determine that there are no grounds for suspending or revoking the license, the license will remain in effect.

Option 2: Send a Letter of Intent to Suspend or Revoke

If we determine that there are grounds for suspending or revoking the license, we will notify you in writing of our intent to suspend or revoke the license. The notification letter will have three principal elements. It will:

1. Clearly identify the convictions that form the basis of the proposed suspension or revocation.
2. Cite the TCEQ rule and statutory authority for the proposed suspension or revocation.
3. Advise you of your right to request a hearing to challenge the proposed suspension or revocation.

Right to Request a Hearing

In accordance with the Texas Administrative Code (30 TAC 30.33[a][2]), an applicant has the right to request a hearing on the agency's intent to suspend or revoke the license.

Requesting a Hearing

If you decide to request a hearing, you must:

1. Make your request in writing.
2. Include your name, address, and phone number.
3. Make sure that your request is received by our Office of the Chief Clerk no later than 30 calendar days after the date the "intent to deny" notification letter was issued. You should send your request to the Office of the Chief Clerk at one of the following addresses:

By U.S. Mail:
Office of the Chief Clerk, MC 105
TCEQ
PO Box 13087
Austin TX 78711-3087

In person or by courier:
Office of the Chief Clerk
TCEQ
12100 Park 35 Circle, Bldg. F
Austin TX 78753

By fax:

512-239-3311

(*Note:* If using fax, the original must be mailed or hand delivered to the chief clerk and received within three business days.)

The Hearing Process

If you request a hearing, we will schedule one for you. The hearing will be conducted by an ALJ with the State Office of Administrative Hearings. After the hearing, the ALJ will issue a Proposal for Decision for consideration by the TCEQ. We, the TCEQ, will ultimately decide whether the license should be suspended or revoked.

In accordance with the Texas Administrative Code (30 TAC 30.37[a]), if your application for a renewed license is denied after a hearing, you may appeal to the district court in Travis County (Austin) for review of the evidence presented to the TCEQ and of the TCEQ's decision. The petition must be filed no later than the 30th day after the date of the TCEQ's decision.

Re-Evaluation

At any time, if we discover pertinent new facts, we may re-evaluate your eligibility and issue a new determination letter.

Reviewing Criminal Histories (30 TAC 30.34)

If you are an applicant for one of our occupational licenses, or hold one already, and you have committed a crime, we review your criminal history to determine whether there are grounds to deny or revoke the license.

Determining whether There Are Grounds to Deny

There are four general factors that we consider in determining whether a particular criminal conviction should be grounds to deny, revoke, or suspend any license:

1. The nature and seriousness of the crime.
2. The relationship of the crime to the purposes for requiring a license to engage in the occupation.
3. The extent to which a license might offer an opportunity to engage in further criminal activity of the same type.

4. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

Determining Your Fitness to Perform the Duties

If you have been convicted of a crime, there are six principal factors that we consider in determining your fitness to perform the duties and discharge the responsibilities of the licensed occupation:

1. The extent and nature of your past criminal activity.
2. Your age when the crime was committed.
3. The amount of time that has elapsed since your last criminal activity.
4. Your conduct and work activity before and after the criminal activity.
5. Evidence of your rehabilitation or rehabilitative effort while incarcerated or after release.
6. Other evidence of your fitness, including letters of recommendation from the following:
 - a. Prosecutors, law-enforcement officers, and correctional personnel who prosecuted, arrested, or had custodial responsibility for you.
 - b. The sheriff or chief of police in the community where you reside.
 - c. Any other person in contact with you.

Specific Considerations, by Type of License

(30 TAC 30.35)

The occupational licenses we, the TCEQ, issue are listed below, followed by a description of how particular categories of crime may relate to each one. The vast majority of criminal convictions that we review will fit within the categories of crime described below.

However, these guidelines are not intended to be an exhaustive listing: they do not prohibit us from considering crimes that are not listed here. Multiple violations of any criminal statute above a Class C misdemeanor will always be reviewed, for any type of license. Multiple violations may reflect a pattern of behavior that renders the applicant unfit for the license.

1. Backflow Prevention Assembly Tester

BPAT licensees have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for service, parts, and equipment.

During inspections, BPAT licensees are in a position to approve backflow-prevention assemblies that may not be operable or that may have code or safety violations, in exchange for an inducement offered by the party requesting the test of the equipment.

BPAT licensees also have continual access to:

- private residences, and deal directly with the general public, which could present opportunities to engage in sexually violent offenses.
- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.
- private residences or businesses, where they may come into direct contact with unattended property, which could present opportunities to engage in crimes against property.
- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

2. Customer Service Inspector

CSI licensees have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for service, parts, and equipment.

CSI licensees are in a position to approve inspections of facilities that may have code or safety violations in exchange for an inducement offered by the party requesting the inspection.

CSI licensees also have continual access to:

- private residences, and deal directly with the general public, which could present opportunities to engage in sexually violent offenses.
- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.
- private residences or businesses, where they may come into direct contact with unattended property, which could present opportunities to engage in crimes against property.

- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

3. Landscape Irrigation Technician, Irrigator, Irrigation Inspector

Landscape irrigation technicians and irrigators have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for service, parts, and equipment.

During inspections, irrigation inspectors are in a position to pass irrigation systems that may have code or safety violations in exchange for an inducement offered by the party requesting the inspection.

These licensees also have continual access to:

- private residences, and deal directly with the general public, which could present opportunities to engage in sexually violent offenses.
- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.
- private residences or businesses, where they may come into direct contact with unattended property, which could present opportunities to engage in crimes against property.
- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

4. On-Site Sewage Facility Apprentice, Designated Representative, Installer, Maintenance Provider, Site Evaluator

OSSF apprentices, installers, maintenance providers, and site evaluators have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for service, parts, and equipment.

During inspections, OSSF Designated Representatives are in a position to pass systems that may have code or safety violations in exchange for an inducement offered by the party requesting the inspection.

OSSF licensees also have continual access to:

- private residences, and deal directly with the general public, which could present opportunities to engage in sexually violent offenses.

- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.
- private residences or businesses, where they may come into direct contact with unattended property, which could present opportunities to engage in crimes against property.
- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

5. Water Treatment Specialist

WTS licensees have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for service, parts, and equipment.

WTS licensees also have continual access to:

- private residences, and deal directly with the general public, which could present opportunities to engage in sexually violent offenses.
- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.
- private residences or businesses, where they may come into direct contact with unattended property, which could present opportunities to engage in crimes against property.
- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

6. Leaking Petroleum Storage Tank Corrective Action Specialist, Project Manager

LPST licensees have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for service, parts, and equipment.

LPST licensees have direct access to business facilities and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.

LPST licensees also have regular access to:

- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.

- businesses, where they may come into direct contact with unattended property, which could present opportunities to engage in crimes against property.
- individuals at businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

7. Underground Storage Tank Contractor, On-Site Supervisor

UST licensees have the means and the opportunity to practice deceit, fraud, and misrepresentation related to the need for service, parts, and equipment.

UST licensees also have regular access to:

- private residences, and deal directly with the general public, which could present opportunities to engage in sexually violent offenses.
- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.
- private residences or businesses, where they may come into direct contact with unattended property, which could present opportunities to engage in crimes against property.
- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

8. Municipal Solid Waste Facility Supervisor

MSW-facility licensees have occasional access to:

- individuals, which could present opportunities to engage in sexually violent offenses.
- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

9. Public Water System Operator

PWS licensees have occasional access to:

- private residences, and deal directly with the general public, which could present opportunities to engage in sexually violent offenses.
- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.

- private residences or businesses, where they may come into direct contact with unattended property which could present opportunities to engage in crimes against property.
- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.

10. Wastewater System Operator

Wastewater-system licensees have occasional access to:

- private residences, and deal directly with the general public, which could present opportunities to engage in sexually violent offenses.
- business facilities, and deal directly with the owners or employees of the businesses, which could present opportunities to engage in sexually violent offenses.
- private residences or businesses, where they may come into direct contact with unattended property which could present opportunities to engage in crimes against property.
- persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons.