



# TCEQ REGULATORY GUIDANCE

Occupational Licensing and Permitting Division  
RG-521 • Revised April 2021

## Consequences of Criminal Convictions for Occupational Licensing

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### For more information:

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

## **Purpose of this Publication**

This regulatory guidance outlines the possible consequences of having a criminal conviction on your ability to obtain and hold an occupational license. This guide provides an overview of the general factors the Executive Director of the Texas Commission on Environmental Quality (TCEQ) considers when we review criminal histories, as well as how particular categories of crime may relate to each occupational license. This guide does not replace any related laws and regulations, which take precedence over any information in this publication.

## **TCEQ and Occupational Licenses**

The Occupational Licensing and Registration Division of the TCEQ is responsible for issuing licenses that you must hold to engage in certain occupations in Texas that may have an environmental impact. The list below includes all the occupational licenses that the TCEQ administers, grouped by the ten basic categories.

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 I and II, Maintenance Provider, Site Evaluator
5. Water Treatment Specialist (WTS)
6. Leaking Petroleum Storage Tank (LPST) Corrective Action 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

With each license, there are several requirements that you must fulfill before we can grant you the license. There are certain restrictions, however, related to criminal convictions.

For more information regarding the requirements for each occupational license, visit our [Occupational Licensing webpage](#).

## **Criminal Convictions and Occupational Licenses**

A criminal conviction above a Class C misdemeanor may result in the denial of a new or renewal license application or the revocation or suspension of an existing license.

## ***Denials, Suspensions, and Revocations***

When you apply for a new occupational license or to renew an existing license with TCEQ, you must include an attestation of your criminal history, even if you have no arrests or convictions. Depending on the information in your criminal history, your application may be subject to review and denial. Additionally, if TCEQ discovers that you have been convicted of or imprisoned for a crime while holding your license, TCEQ may determine that your license must be automatically revoked. The information below provides more detail on what convictions may result in denial of your application or suspension or revocation of your license.

### ***Convictions That May Trigger a Denial, Suspension, or Revocation***

Some criminal convictions that are grounds to deny an application for a new or renewal license (or to revoke or suspend an existing license), include, but are not limited to:

- Misrepresentation (e.g., fraud, extortion, bribery, theft by check, and deceptive business practices);
- Sexually violent offenses and registration requirements (as identified and required by the [Texas Code of Criminal Procedure, Chapter 62](#)),
- Property crimes, such as theft or burglary;
- Violent crimes against persons; such as homicide, kidnapping, and assault; or
- Environmental law violations.

## **Prospective Applicants Who Have a Criminal Conviction ([30 TAC 30.13](#))**

### ***Evaluation Request***

If you are a prospective applicant for an occupational license and think that you might be ineligible for the license because of a conviction for a felony or a misdemeanor as identified above, you should request an evaluation of your criminal history by filling out an [Evaluation of Criminal Charges/Convictions](#) that is available on our website.

You should request this evaluation before enrolling in an approved training program required for that license or before applying for a license.

As of September 1, 2017: Training Providers who are regulated by the TCEQ and provide core courses required for an initial license, shall notify each applicant or enrollee in their training course of the consequences of criminal convictions on their ability to qualify for an occupational license. Failure to notify students may subject the training provider to possible reimbursement of all training and

application fees to course enrollees whose licenses were denied due to a criminal conviction.

## ***Criminal History Review and Determination***

When we receive your request for an evaluation, we will review your criminal history using the records of the Texas Department of Public Safety (DPS) or other applicable data systems. We will then determine whether your criminal history makes you ineligible for a license.

### ***Notification***

We will notify you in writing of our determination no later than the 90th day after the date that we received your evaluation request. If we determine that you are ineligible for a license, we will explain why. Our determination will be final.

## **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 provide a criminal attestation as part of your application package. A criminal attestation is a statement in which you certify whether or not you have a history of criminal conviction.

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

### **Initial Applicants**

If you are applying for an initial license, you must complete the online application process prior to registering for the licensing exam.

To generate your attestation, fill out our Criminal Conviction Notification section within the [Occupational Licensing Electronic Application](#). If you do not submit an attestation with your application, we will send you a deficiency letter that states that we cannot approve your application to take the licensing exam until you submit an attestation. If you are clearing a deficiency for your online application, you can submit your attestation electronically or print out the form from the [Criminal History Notification webpage](#) and mail it to us. **To clear your deficiency, you must contact us to let us know the form is completed and submitted.**

## **Renewal Applicants**

If you are applying to renew a current license, you must submit your entire application package either online or on paper, including a criminal attestation.

If you are submitting it online, you should submit your attestation online as well. If you submit the renewal application by paper, the Criminal Conviction Notification form must be printed and completed. You can access both by visiting our [Criminal History Notification webpage](#).

## **Letters of Recommendation and Evidence of Rehabilitation**

If you are applying for a license, you have a criminal history, and you wish for this information to be considered in the determination of eligibility, you have the responsibility, when requested, to obtain and provide us with evidence of:

- your conduct and work activity before and after the criminal activity;
- rehabilitative efforts while incarcerated or after released;
- compliance with any conditions of community supervision, parole, or mandatory supervision; or
- your fitness to perform the duties and responsibilities of the licensed occupation, including letters of recommendation.

## **License Denial, Suspension, or Revocation ([30 TAC 30.33](#))**

### ***Criminal History Review and Determination***

When we receive your application for any license (initial or renewal), we will review your criminal history using the records of DPS and other applicable data systems. If you have a current license, and if we discover that you have a criminal conviction, we will determine whether there are grounds for denying the application or for suspending or revoking the license.

### ***No Grounds for Denial***

If we determine that there are no grounds for denying the application and all other requirements for the license have been met, we will complete processing your application and, after you pass the exam for a new license, we will issue you the license.

### ***Grounds for Denial, Suspension, or Revocation***

If we determine that there are grounds for denying your application or suspending or revoking your license, we will notify you in writing of our intent using a two-step notification process.

## **First Notification**

The first notification letter will:

- Clearly identify the convictions that form the basis of the proposed denial, suspension, or revocation.
- Cite the TCEQ rule and statutory authority for the proposed denial, suspension, or revocation.
- Advise you of your responsibility to provide the following additional supporting documentation, if you wish for it to be considered in your final eligibility, within 30 days of the date of the letter:
  - your conduct and work activity before and after the criminal activity;
  - rehabilitative efforts while incarcerated or after released;
  - compliance with any conditions of community supervision, parole, or mandatory supervision; or
  - your fitness to perform the duties and responsibilities of the licensed occupation, including letters of recommendation.

## **Re-evaluation**

If you provide pertinent new facts, as stated above, we may re-evaluate your eligibility and may either continue with the denial process or determine your application is eligible to continue the process of obtaining a license.

## **Second Notification**

After review of the documentation you provide, if any, we will either determine that your application is eligible to proceed or that the denial process must continue. If you do not respond to the initial letter of intent to deny, suspend, or revoke your license, we will proceed with the denial, suspension, or revocation.

The second notification letter will:

- Clearly identify the convictions that form the basis of the proposed denial, suspension, or revocation.
- Cite the TCEQ rule and statutory authority for the proposed denial, suspension, or revocation.
- Advise you of your right to request a contested hearing within 30 days.

## **Requesting a Hearing**

In accordance with the Texas Administrative Code ([30 TAC 30.33\[a\]\[2\]](#)), you have the right to request a hearing on the agency's intent to deny, revoke or suspend. If you decide to request a hearing, you must:

- Make your request in writing.
- Include your name, address, and phone number.

- Make sure that your request is received by our Office of the Chief Clerk, no later than 30 calendar days after the date you receive the second "intent to deny" notification letter from the United States Post Office. 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 from the date the fax was received.

## **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 (SOAH). The process will consist of two hearings: a Preliminary Hearing, intended to set the schedule for the hearing and discovery process; and the Hearing on the Merits (HOM), which is conducted like a criminal trial. After the HOM, the ALJ will issue a Proposal for Decision for consideration by the TCEQ. The TCEQ will ultimately decide whether your license application should be denied and will bring this recommendation to the TCEQ's commission, which will ultimately make the final decision.

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 (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 final TCEQ commission's decision.

## ***Automatic Revocations* ([Texas Occupations Code 53.021\(b\)](#))**

We will revoke a license upon becoming aware of a license holder's imprisonment following a felony conviction or imprisonment, or following revocation of felony community supervision, parole, or mandatory supervision. These automatic revocations are not subject to the notification and hearing process described above.

## Reviewing Criminal Histories ([30 TAC 30.34](#))

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

### ***Determining Whether There Are Grounds to Deny, Suspend, or Revoke***

As of September 1, 2019, there are three possible grounds we may consider for denial, suspension, or revocation of a license:

1. Convictions that directly relate to the duties and responsibilities of the license,
2. Sexually violent crimes listed in [Article 62.001 of the Code of Criminal Procedure](#), or
3. Certain other serious crimes listed in [Article 42A.054 of the Code of Criminal Procedure](#) (murder, aggravated robbery, aggravated kidnapping, etc.)

Note: Prior to September 1, 2019, there was an additional ground for possible denial: a conviction that doesn't directly relate to the license but occurred within last 5 years. Applications received prior to September 1, 2019, are subject to the rules valid at that time.

### ***Determining Whether an Offense Directly Relates to the Duties and Responsibilities of the License***

We consider the following factors in determining whether a particular criminal conviction relates to the duties and responsibilities of a license:

1. The actual work to be performed by a licensed individual;
2. The access required by license (to a property, residence, etc.);
3. The nature and seriousness of the crime;
4. The relationship of the crime to the purposes for requiring a license to engage in the occupation;
5. The extent to which a license might offer an opportunity to engage in further criminal activity of the same type; and
6. The relationship of the crime to the ability or capacity required to perform the duties of the licensed occupation.



## ***Determining Your Ability to Perform the Duties of the Occupation***

If you have been convicted of a crime, there are six principal factors that we consider in determining your ability 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; and
6. Other evidence of compliance with any conditions of community supervision, parole, or mandatory supervision.

## **Specific Considerations by Type of License** **(30 TAC 30.35)**

Table 1 below shows the relative risk to which a license might offer an opportunity to re-engage in further criminal activity based on the licenses' access to property or individuals. The table also includes an overall risk level for each license type.

Many criminal convictions that we review will fit within the categories of crime described below; however, these guidelines are not intended to be an exhaustive list. 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, as that may reflect a pattern of behavior that renders the applicant unfit for the license.

**Table 1- Opportunities for Crimes Based on the Type of License**

	<b>Backflow Prevention Assembly Tester</b>	<b>Customer Service Inspector</b>	<b>Landscape Irrigation<sup>1</sup></b>	<b>OSSF<sup>2</sup></b>	<b>Water Treatment Specialist</b>	<b>LPST Project Manager</b>	<b>UST<sup>3</sup></b>	<b>PWS Operator</b>	<b>MSW Facility Supervisor</b>	<b>Wastewater System Operator</b>
Means and opportunity to practice deceit, fraud, and misrepresentation related to the need for service, parts, and equipment	High	High	High	High	High	High	High	Low	Low	Low
Means and opportunity to practice deceit, fraud, and misrepresentation related to environmental compliance reporting to local, state, or federal regulatory authorities	High	High	High	High	Low	High	Low	High	Medium	High
In a position, during inspections, to approve equipment 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	High	High	High	High	Low	Medium	Low	Low	Low	Low
Access to individuals or private residences and deal directly with the general public, which could present opportunities to engage in sexually violent offenses	High	High	High	High	High	Medium	Medium	Medium	Low	Low

<sup>1</sup> Includes Landscape Irrigation Technician, Irrigator, and Irrigation Inspector

<sup>2</sup> Includes OSSF Apprentice, Designated Representative, Installer, Maintenance Provider, and Site Evaluator

<sup>3</sup> Includes UST Contractor and On-site Supervisor

	Backflow Prevention Assembly Tester	Customer Service Inspector	Landscape Irrigation <sup>1</sup>	OSSF <sup>2</sup>	Water Treatment Specialist	LPST Project Manager	UST <sup>3</sup>	PWS Operator	MSW Facility Supervisor	Wastewater System Operator
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	High	High	High	High	High	Medium	Medium	Low	Low	Low
Access to private residences or businesses, where they may come into direct contact with unattended property, which could present opportunities to engage in crimes against property	High	High	High	High	High	Medium	Medium	Medium	Low	Low
Access to persons at residences or businesses in situations that could have a potential for confrontational behavior related to crimes against persons	High	High	High	High	High	Medium	Medium	Medium	Low	Low
<b>OVERALL LICENSE RISK LEVEL</b>	<b>HIGH</b>	<b>HIGH</b>	<b>HIGH</b>	<b>HIGH</b>	<b>HIGH</b>	<b>MEDIUM</b>	<b>MEDIUM</b>	<b>MEDIUM</b>	<b>LOW</b>	<b>LOW</b>

Criminal history evaluations and reviews are a critical part of issuing occupational licenses. If you have questions or want more information than is provided in this guidance, you can visit our [Occupational Licensing webpage](#) or call our public information line, 512-239-6133, for more information.