

HOUSE BILL REPORT

HB 1188

As Reported By House Committee On:

Commerce & Labor

Title: An act relating to grounds for disciplinary action against real estate brokers or salespersons.

Brief Description: Preventing a registered sex offender from holding a real estate license.

Sponsors: Representatives Hurst, Clements, Conway, Ballasiotes, Lisk, McMorris, B. Chandler, McIntire, Romero, Kessler, Carrell, Dickerson, O'Brien, Kenney, Ogden, Dunn, Lovick, Miloscia, Lantz and Rockefeller; by request of Department of Licensing.

Brief History:

Committee Activity:

Commerce & Labor: 2/27/99, 2/4/99 [DP].

Brief Summary of Bill

- The bill permits the department to suspend, deny, or revoke the license of a real estate broker or salesperson who is a sex offender for as long as the offender is required to be registered.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; B. Chandler, Republican Vice Chair; Wood, Democratic Vice Chair; Hurst; Lisk; McIntire and McMorris.

Staff: Douglas Ruth (786-7134).

Background:

The licensure of real estate brokers and salespersons is administered by the Department of Licensing. The department administers a test to each license applicant

and insures that applicants meet several admission conditions. The department also has authority for disciplining licensed brokers and salespersons. If the director finds that an individual has violated one of the grounds for discipline listed in statute, the director may levy a fine, require completion of a course relevant to the violation, or deny, suspend, or revoke the individual's license.

One of the grounds for disciplinary action is commission of a crime involving moral turpitude. Among the crimes the department considers within this category are sex offenses. These are crimes defined under RCW 9A.44.130(8). Persons convicted of these crimes must register with the sheriff in the county of their residence when they are released from incarceration. Sex offenders are registered for life, 15 years or 10 years depending on the level of crime committed.

The director's ability to deny a license to someone who has committed a crime of moral turpitude is limited by the general restriction that convictions more than 10 years old may not be used as a basis to deny a professional license (RCW 9.96A.020). As a result, the department cannot deny an application or suspend the license of a registered sex offender who was convicted more than 10 years ago.

Summary of Bill:

The bill permits the department to suspend, deny, or revoke the license of a real estate broker or salesperson who is a sex offender for as long as the offender is required to be registered.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Real estate salespersons and brokers have access to many homes through lock boxes, open houses, or through showing homes. Real estate agents commonly report finding children at home alone when they show a house. Thus, the inability of the department to deny a sex offender a license poses a threat to an unsuspecting public. Potentially, a sex offender who is a real estate salesperson could access homes with unsuspecting individuals in them. Currently, due to the requirements of the Restoration of Rights Act, the department cannot deny an application or suspend the license of a registered sex offender whose conviction is more than 10 years old. The underlying principle of the act is that criminals rehabilitate and should not be penalized for crimes committed 10 years prior. However, by enacting the sex offenders registration law, the legislature recognized

that it may not be possible to rehabilitate all sex offenders. This bill reflects that finding. Additionally, sex offenders who are acquitted by asserting the insanity defense cannot be excluded from obtaining a license although they must register as sex offenders. The bill would also protect the public from these dangerous individuals. Sex offenders denied a license due to a conviction of a sex offense are not without recourse. Current law requires a right to appeal for all persons denied a license. So there is a check on license denials based on the applicant's or licensee's criminal record.

Testimony Against: None.

Testified: Representative Christopher Hurst; Bob Mitchell, Department of Licensing, Real Estate Program; Evangeline Anderson, Washington Real Estate Commission; and Roni Strupat, Washington Association of Realtors.