

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 171

By: Senator J. Cooper

For An Act To Be Entitled

AN ACT TO CREATE THE OCCUPATIONAL LICENSING SUNRISE AND SUNSET ACT OF 2019; TO ESTABLISH A REVIEW PROCESS FOR OCCUPATIONAL LICENSURE AND OCCUPATIONAL LICENSING ENTITIES; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE OCCUPATIONAL LICENSING SUNRISE AND SUNSET ACT OF 2019; AND TO ESTABLISH A REVIEW PROCESS FOR OCCUPATIONAL LICENSURE AND OCCUPATIONAL LICENSING ENTITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry; and



(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

(E) Establish a systematic process for review of:

(i) New occupational licensure and occupational licensing entities; and

(ii) Existing occupational licensure and occupational licensing entities.

(b) It is the intent of the General Assembly to establish a systemic process for review of:

(1) New occupational licensure and occupational licensing entities; and

(2) Existing occupational licensure and occupational licensing entities.

SECTION 2. Arkansas Code Title 17 is amended to add an additional chapter to read as follows:

Chapter 2

Occupational Licensing Sunrise and Sunset Act of 2019

17-2-101. Title.

This chapter shall be known and may be cited as the "Occupational Licensing Sunrise and Sunset Act of 2019".

17-2-102. Definitions.

As used in this chapter:

(1) "Occupational licensing entity" means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession;

(2) "Occupational licensure" means a license, certificate, registration, permit, or other form of authorization required by law or a rule that is required for an individual to engage in a particular occupation or profession; and

(3) "Public health and safety interest" means protections from items or events that can cause disease, illness, injury to a person or damage to property, or financial harm, or have detrimental effects on the public good.

17-2-103. Sunrise and Sunset Occupational Licensing Commission.

(a) There is created the Sunrise and Sunset Occupational Licensing Commission.

(b)(1)(A) The Governor shall appoint seven (7) members for terms of four (4) years, except that the initial board shall be appointed to staggered terms in that the term of one (1) member expires each year.

(B) To qualify for appointment to the commission, an individual is required to have been a resident of the state for a period of three (3) or more years.

(2) An individual is not eligible for appointment if the individual or the individual's spouse is:

(A) Regulated by an occupational licensing entity to be reviewed during the term for which the individual would serve;

(B) Employed by, participates in the management of, or directly or indirectly has more than ten percent (10%) interest in a business entity or other organization regulated by an occupational licensing entity to be reviewed during the term for which the individual would serve; or

(C) Required to register as a lobbyist due to the individual's activities for compensation on behalf of a profession or occupational licensing entity under review.

(3) All vacancies on the commission shall be filled by the Governor to serve for the unexpired term of the member whose place is rendered vacant.

(c)(1) The commission shall choose one (1) of its members as chair at the first meeting.

(2) The Governor shall call the first meeting.

(3) The commission shall meet at least quarterly after the first meeting.

(d)(1) The commission shall make and adopt all procedures, policies, and rules necessary to implement this chapter.

(2) The commission is not exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or review and approval of rules under § 10-3-309.

(e) The commission may:

(1) Contract with consultants to assist in the duties assigned under this chapter;

(2) Request the staff of Arkansas Legislative Audit to assist in the duties assigned under this chapter; or

(3)(A) Hire staff to assist in the duties assigned under this chapter.

(B) However, the commission shall not hire more than ten (10) employees.

(f) Each member of the commission may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

17-2-104. Sunrise review of proposed legislation regarding occupational licensure and occupational licensing entities.

(a)(1) No later than December 31st of an even-numbered year, a member of the General Assembly or the executive branch may submit proposed legislation that would create an occupational licensure or occupational licensing entity, or both, or significantly affect an existing occupational licensure or occupational licensing entity, or both, to the Sunrise and Sunset Occupational Licensing Commission for review.

(2) A request under subdivision (a)(1) of this section may be submitted after December 31st of an even-numbered year if approval is received from the chair of the commission.

(b) The commission shall:

(1) Review all legislation that would:

(A) Create a new occupational licensure or occupational

licensing entity, or both; or

(B) Significantly affect an existing occupational licensure or occupational licensing entity, or both;

(2) Determine whether:

(A) The unregulated practice of the occupation would be inconsistent with the public health and safety interest;

(B) The public can reasonably be expected to benefit from an assurance of initial and continuing professional skill sets or competencies; or

(C) The public can be more effectively protected by means other than state regulation; and

(3) Submit recommendations to the Speaker of the House of Representatives and the President Pro Tempore of the Senate regarding the need for the regulation of the occupation.

17-2-105. Sunset review of occupational licensure and occupational licensing entities.

(a)(1) The Sunrise and Sunset Occupational Licensing Commission shall:

(A)(i) Review the occupational licensure of all occupational licensing entities on a six-year rotating basis as determined by the commission.

(ii)(a) The occupational licensure and the occupational licensing entities shall be divided in six (6) groups to be determined by the commission.

(b) The commission shall review one (1) group each year.

(iii) However, an occupational licensing entity may be reviewed outside of the six-year rotating basis if a member of the General Assembly makes a formal request to the commission and the chairs of the commission approve the request;

(B) Consider the following:

(i) Whether the occupational licensure serves a meaningful, defined public health and safety interest and provides the least restrictive form of regulation that will adequately protect the public health and safety interest;

(ii) The extent to which the regulatory objective of

the occupational licensure may be achieved through market forces, private or industry certification and accreditation programs, or enforcement of other laws;

(iii) The extent to which occupational licensure ensures that applicants have occupational skill sets or competencies that correlate with a public health and safety interest and the effect that the occupational licensure has on applicants, particularly individuals with moderate or low incomes who are seeking to enter the occupation or profession; and

(iv) The impact of regulation, including the extent to which occupational licensure stimulates or restricts competition and affect consumer choice and the cost of services; and

(C) Make recommendations on:

(i) The abolition, transfer, continuation, or reorganization of each occupational licensing entity and on the need for the performance of the functions of the agency and its advisory committees; and

(ii) The abolition, transfer, continuation, or reorganization of the occupational licensure.

(b) Under a timeline as determined by the commission, an occupational licensing entity shall:

(1)(A) File a report with the Governor, the General Assembly, and the commission.

(B) The report shall consist of:

(i) Occupational licensure requirements for each occupational title licensed;

(ii) Fees and penalties associated with the occupational licensure;

(iii) The number of individuals licensed for each occupational title licensed;

(iv) A statement regarding whether the occupational licensure is required by state or federal law; and

(v) Any other relevant information determined by the Legislative Council;

(2) Appear in a public hearing of the commission to discuss the report prepared by the occupational licensing entity; and

(3) Provide any assistance requested to the commission regarding

the review of the occupational licensure and occupational licensing entity.