

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

SENATE BILL 171

4
5 By: Senator J. Cooper

For An Act To Be Entitled

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

Subtitle

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

20
21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

25 (a) The General Assembly finds that:

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

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

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



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

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

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

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

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

14 (E) Establish a systematic process for review of:

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

17 (ii) Existing occupational licensure and
18 occupational licensing entities.

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

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

23 (2) Existing occupational licensure and occupational licensing
24 entities.

25
26 SECTION 2. Arkansas Code Title 17 is amended to add an additional
27 chapter to read as follows:

28 Chapter 2

29 Occupational Licensing Sunrise and Sunset Act of 2019

30
31 17-2-101. Title.

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

34
35 17-2-102. Definitions.

36 As used in this chapter:

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

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

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

13
14 17-2-103. Sunrise and Sunset Occupational Licensing Commission.

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

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

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

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

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

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

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

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

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

3 (2) The Governor shall call the first meeting.

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

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

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

11 (e) The commission may:

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

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

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

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

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

22
23 17-2-104. Sunrise review of proposed legislation regarding
24 occupational licensure and occupational licensing entities.

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

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

34 (b) The commission shall:

35 (1) Review all legislation that would:

36 (A) Create a new occupational licensure or occupational

1 licensing entity, or both; or

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

4 (2) Determine whether:

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

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

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

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

15
16 17-2-105. Sunset review of occupational licensure and occupational
17 licensing entities.

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

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

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

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

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

31 (B) Consider the following:

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

36 (ii) The extent to which the regulatory objective of

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

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

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

13 (C) Make recommendations on:

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

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

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

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

23 (B) The report shall consist of:

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

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

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

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

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

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

36 (3) Provide any assistance requested to the commission regarding

the review of the occupational licensure and occupational licensing entity.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36