

DRAFT

DRMDD050

 LEGISLATURE OF THE STATE OF IDAHO
 Sixty-fifth Legislature Second Regular Session - 2020

This bill draft contains confidential and privileged information exempt from disclosure under Section 74-109(1), Idaho Code. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning the Legislative Services Office at (208) 334-2475.

1 AN ACT
 2 RELATING TO OCCUPATIONAL LICENSING REFORM; AMENDING CHAPTER 94, TITLE 67,
 3 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-9408, IDAHO CODE, TO PRO-
 4 VIDE FOR THE CREATION OF AN OCCUPATIONAL AND PROFESSIONAL LICENSURE RE-
 5 VIEW COMMITTEE; AMENDING CHAPTER 94, TITLE 67, IDAHO CODE, BY THE ADDI-
 6 TION OF A NEW SECTION 67-9409, IDAHO CODE, TO PROVIDE FOR UNIVERSAL LI-
 7 CENSURE; AMENDING CHAPTER 94, TITLE 67, IDAHO CODE, BY THE ADDITION OF
 8 A NEW SECTION 67-9410, IDAHO CODE, TO PROVIDE FOR PREQUALIFICATION RE-
 9 QUESTS; AND AMENDING CHAPTER 94, TITLE 67, IDAHO CODE, BY THE ADDITION
 10 OF A NEW SECTION 67-9411, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
 11 THE EVALUATION OF CRIMINAL CONVICTIONS WITH RESPECT TO MORAL CHARACTER
 12 REQUIREMENTS.

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Chapter 94, Title 67, Idaho Code, be, and the same is
 15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 16 ignated as Section 67-9408, Idaho Code, and to read as follows:

17 67-9408. OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMIT-
 18 TEE. (1) In order to establish oversight of occupational and professional
 19 licensure and related issues in Idaho, there is hereby established an occu-
 20 pational and professional licensure review committee.

21 (2) The committee shall consist of eight (8) members, with four (4) mem-
 22 bers from the senate, one (1) of whom shall be cochair of the committee, and
 23 four (4) members from the house of representatives, one (1) of whom shall be
 24 cochair of the committee. Members from the senate shall be appointed by the
 25 president pro tempore of the senate and members from the house of represen-
 26 tatives shall be appointed by the speaker of the house of representatives.
 27 No more than three (3) members from the senate and no more than three (3)
 28 members from the house of representatives shall be from the same political
 29 party. Appointments to the committee shall be for the term of office of the
 30 member appointed. Any vacancy shall be filled in a manner consistent with
 31 the appointment procedure set forth in this subsection, except the appoint-
 32 ment shall be for the remainder of the unexpired term. A committee member may
 33 be reappointed to the committee.

34 (3) In addition to conducting sunrise reviews as set forth in this sec-
 35 tion, the committee is authorized to study and review occupational licensing
 36 and certification laws in general in order to determine, as applicable, how
 37 the legislature may be able to ease occupational licensing barriers while
 38 still protecting the public health and safety. The committee shall meet as
 39 often as may be necessary for the proper performance of its duties upon the
 40 call of the cochairs.

41 (4) The committee shall operate for three (3) years and make a report
 42 to the first regular session of the sixty-seventh Idaho legislature in 2023.

1 The legislature may take subsequent action to extend the duration of the com-
2 mittee or to make it permanent.

3 (5) Effective January 1, 2021, the committee may conduct a sunrise
4 review upon request that a lawful profession or occupational group that is
5 not regulated become regulated. For purposes of this section, a profession
6 or occupation becoming "regulated" means adding a requirement that a person
7 must hold a license, certificate, registration, permit, or other autho-
8 rization issued by a licensing authority to engage in such profession or
9 occupation.

10 (a) Sunrise review by the committee shall not be required prior to the
11 introduction of any proposed legislation that a lawful profession or
12 occupational group that is not licensed become licensed, nor shall a
13 germane committee of the legislature later considering such proposed
14 legislation be bound by the recommendation of the committee. The sun-
15 rise review process shall be as follows:

16 (i) The legislative services office shall prepare and publish an
17 application form to be approved by the committee and used for the
18 sunrise review process.

19 (ii) A requestor shall, prior to the introduction of any proposed
20 legislation, submit the application for sunrise review to the leg-
21 islative services office. The application shall be submitted by
22 May 1 for review and processing prior to the next regular legisla-
23 tive session.

24 (iii) In addition to any other information requested by the com-
25 mittee or staff, the application shall include a copy of the appli-
26 cant's proposed draft legislation and a description of:

27 1. The requestor's identity and relationship to the profes-
28 sion or occupational group;

29 2. Why licensing or other regulation of the profession or
30 occupation is necessary to protect against present, recog-
31 nizable, and sufficient harm to the health, safety, or wel-
32 fare of the public to warrant the regulation proposed;

33 3. Why the proposed licensing or other regulation is the
34 least restrictive regulation necessary to protect against
35 present, recognizable, and sufficient harm to the health,
36 safety, or welfare of the public to warrant the regulation
37 proposed;

38 4. Why the public cannot be effectively protected by other
39 means;

40 5. Whether the overall cost-effectiveness and economic im-
41 pact of the proposed regulation, including the direct and
42 indirect costs to consumers, will be outweighed by the bene-
43 fits of the proposed licensing or other regulation;

44 6. Whether the proposed licensing or other regulation will
45 have an unreasonably negative effect on job creation, job
46 retention, or wages in the state or will place unreasonable
47 restrictions on the ability of individuals who seek to prac-
48 tice or who are practicing a given profession or occupation
49 to continue to practice or to find employment; and

50 7. Any other relevant information.

1 (iv) With respect to an application timely received by the leg-
2 islative services office by May 1:

3 1. By August 1, the legislative services office shall submit
4 a report with factual analysis to the committee and the ap-
5 plicant. Such report shall be made available to the public.
6 Such report shall verify the contents of an application and
7 submitted information and address any other related factual
8 matters, but shall not contain a recommendation.

9 2. By October 1, the committee shall review such appli-
10 cation and submitted information and the associated report
11 prepared by the legislative services office, along with any
12 other relevant information, and hold a public hearing on
13 such application.

14 3. By November 1, the committee shall prepare a written
15 recommendation as to whether a requested occupation or pro-
16 fession should be regulated in the manner set forth in the
17 application and shall and deliver such recommendation to
18 the president pro tempore of the senate and the speaker of
19 the house of representatives for subsequent delivery to the
20 appropriate germane committee chairpersons. Such written
21 recommendation may include non-mandatory suggestions as to
22 how the application, including the proposed legislation,
23 may be improved. An applicant receiving such suggestions
24 shall be encouraged follow the recommended suggestions of
25 the committee before offering the legislation for introduc-
26 tion during the next legislative session.

27 SECTION 2. That Chapter 94, Title 67, Idaho Code, be, and the same is
28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
29 ignated as Section 67-9409, Idaho Code, and to read as follows:

30 67-9409. UNIVERSAL LICENSURE. (1) A licensing authority shall estab-
31 lish a procedure for the issuance of licensure to a person who:

32 (a) Possesses current, valid, and unrestricted licensure in another
33 state, district, or territory of the United States; and

34 (b) Demonstrates competency in the profession or occupation through
35 methods determined by the licensing board or commission.

36 (2) Each applicant for universal licensure under this section must ap-
37 ply to the applicable licensing authority for licensure. An applicant under
38 this section shall be subject to the laws regulating the person's practice in
39 Idaho and is subject to the applicable licensing authority's jurisdiction.
40 For purposes of this section, the term "licensure" means a license, certifi-
41 cate, registration, permit, or other authorization to practice a profession
42 or occupation.

43 (3) To determine whether an applicant for universal licensure, who
44 possesses the licensure requirements established in subsection (1) of this
45 section, is otherwise qualified for licensure under Idaho law, a licensing
46 authority shall require an applicant to complete an application, submit
47 supporting materials, and undergo the same background checks as required of
48 other applicants for licensure.

1 (4) In addition to the requirements set forth in this section, if it ad-
2 ministers an examination as part of the application requirements, a licens-
3 ing authority may require an applicant to take and pass all or a portion of
4 such examination as may be necessary to demonstrate competence to practice
5 in Idaho.

6 (5) An applicant for universal licensure shall pay all applicable fees
7 and shall be subject to all applicable requirements related to maintaining
8 licensure as established by the licensing authority.

9 (6) A licensing authority may, at its discretion, compare the au-
10 thorized scope of practice in the state, or states, where the applicant
11 currently holds licensure to the authorized scope of practice in Idaho. If
12 such licensing authority determines that the authorized scope of practice
13 in Idaho is broader than the scope of practice authorized in the state, or
14 states, where the applicant currently holds licensure, such licensing au-
15 thority may, instead of issuing a denial on the basis of the difference in
16 scope of practice, issue a limited license to such applicant pending com-
17 pletion of the additional education, training, and any other requirements
18 determined necessary by the licensing authority. A limited license issued
19 under this section shall restrict the applicant's practice in Idaho to the
20 scope of practice authorized in the state where the applicant holds prior
21 licensure until such time that the applicant satisfies the education, train-
22 ing, or other requirements deemed necessary by the licensing authority.

23 (7) This section shall not apply to a person who is a member of a profes-
24 sion or occupation covered by an interstate licensure compact that the per-
25 son's home state and Idaho have each adopted. In such a situation, a person
26 shall apply for licensure pursuant to the terms of the applicable licensure
27 compact rather than through universal licensure pursuant to this section.
28 A person from a state that has not adopted an interstate licensure compact
29 that Idaho has adopted is eligible for universal licensure pursuant to this
30 section, provided that such person is otherwise eligible pursuant to the re-
31 quirements of this section; however, such licensure shall be valid only in
32 Idaho. A licensing authority for a profession or occupation affected by an
33 interstate licensure compact that Idaho has adopted shall promulgate appli-
34 cable rules if necessary to implement the provisions of this section.

35 (8) Each licensing authority shall promulgate applicable rules if nec-
36 essary to implement the provisions of this section.

37 SECTION 3. That Chapter 94, Title 67, Idaho Code, be, and the same is
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
39 ignated as Section 67-9410, Idaho Code, and to read as follows:

40 67-9410. PREQUALIFICATION REQUESTS. (1) An individual who has been
41 convicted of a criminal offense may request, at any time, that a licensing
42 authority determine whether the individual's criminal conviction would dis-
43 qualify the individual from obtaining a license, certificate, registration,
44 permit, or other authorization to practice a profession or occupation issued
45 or conferred by the licensing authority. An individual making such a request
46 shall include details of the individual's criminal conviction and any pay-
47 ment required by the licensing authority. A licensing authority may charge a

1 fee of not more than twenty five dollars (\$25.00) for each request made under
2 this section, to reimburse the costs it incurs in making the determination.

3 (2) Not later than sixty (60) days after receiving a request under this
4 section, the licensing authority shall inform the individual whether, based
5 on the criminal record information submitted, the individual is disquali-
6 fied from receiving or holding the license about which the individual in-
7 quired.

8 (3) A licensing authority shall not be bound by a determination made
9 under this section if it later determines that the facts and circumstances
10 submitted in a prequalification request were not complete and accurate, that
11 the individual's criminal background is different than described in the pre-
12 qualification request, or that a subsequent criminal offense or other rele-
13 vant conduct occurred after the prequalification request was submitted.

14 SECTION 4. That Chapter 94, Title 67, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 67-9411, Idaho Code, and to read as follows:

17 67-9411. EVALUATION OF CRIMINAL CONVICTIONS. (1) A licensing author-
18 ity shall not deny a license, certificate, registration, permit, or other
19 authorization to practice a profession or occupation to an applicant on the
20 basis of such applicant having a prior conviction of a crime, unless such
21 conviction is currently relevant to the applicant's fitness as determined by
22 the licensing authority. The licensing authority shall make its determina-
23 tion based upon consideration of the following factors:

24 (a) The nature and seriousness of the crime for which the individual was
25 convicted;

26 (b) The relationship of the crime to the ability, capacity, and fit-
27 ness required to perform the duties and discharge the responsibilities
28 of the occupation;

29 (c) The passage of time since the commission of the crime; and

30 (d) Any evidence of rehabilitation or treatment undertaken by the indi-
31 vidual.

32 (2) A licensing authority shall not deny a license, certificate, reg-
33 istration, permit, or other authorization to practice a profession or occu-
34 pation to an applicant on the basis of vague or generic terms including, but
35 not limited to, "moral turpitude" or "good moral character." If such terms
36 appear in code or in rule, a licensing authority shall ensure that no crime
37 or act committed by the applicant is used to deny licensure pursuant to such
38 vague or generic terminology absent a further evaluation of the relevancy of
39 the crime or act to the duties and responsibilities of the occupation or pro-
40 fession, as determined by the licensing authority.