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LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature First Regular Session - 2021

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1 AN ACT
2 RELATING TO THE OCCUPATIONAL LICENSING REFORM ACT; AMENDING SECTION
3 67-9408, IDAHO CODE, TO ESTABLISH A PROCESS FOR REVIEW OF LICENSING AU-
4 THORITIES AND RELATED LAWS AND REGULATIONS.

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

6 SECTION 1. That Section 67-9408, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 67-9408. OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMIT-
9 TEE. (1) In order to establish oversight of occupational and professional
10 licensure and related issues in Idaho, there is hereby established an occu-
11 pational and professional licensure review committee.

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

25 (3) In addition to conducting sunrise and sunset reviews as set forth in
26 this section, the committee is authorized to study and review occupational
27 licensing and certification laws in general in order to determine, as appli-
28 cable, how the legislature may be able to ease occupational licensing barriers
29 while still protecting the public health and safety. The committee shall
30 meet as often as may be necessary for the proper performance of its duties
31 upon the call of the cochairs.

32 ~~(4) The committee shall operate for three (3) years and shall make a re-~~
33 ~~port to the first regular session of the sixty-seventh Idaho legislature in~~
34 ~~2023. The legislature may take subsequent action to extend the duration of~~
35 ~~the committee or to make it permanent.~~

36 ~~(5)~~ Beginning January 1, 2021, the committee shall conduct a sunrise
37 review upon request that a lawful profession or occupational group that is
38 not licensed become licensed. For purposes of this section, a profession
39 or occupation becoming "licensed" means adding a requirement that a person
40 must hold a license, certificate, registration, permit, or other authoriza-
41 tion issued by a licensing authority to engage in such profession or occupa-
42 tion. Sunrise review by the committee shall be required prior to the intro-

1 duction of any proposed legislation that a lawful profession or occupational
2 group that is not licensed become licensed; provided, however, that a ger-
3 mane committee of the legislature later considering such proposed legisla-
4 tion shall not be bound by the recommendation of the committee. The sunrise
5 review process shall be as follows:

6 (a) The legislative services office shall prepare and publish an appli-
7 cation form to be approved by the committee and used for the sunrise re-
8 view process.

9 (b) A requestor shall, prior to the introduction of any proposed leg-
10 islation, submit the application for sunrise review to the legislative
11 services office. The application shall be submitted by May 1 for review
12 and processing prior to the next regular legislative session.

13 (c) In addition to any other information requested by the committee or
14 staff, the application shall include a copy of the applicant's proposed
15 draft legislation and a description of:

16 (i) The requestor's identity and relationship to the profession
17 or occupational group;

18 (ii) Why licensing or other regulation of the profession or occu-
19 pation is necessary to protect against present, recognizable, and
20 sufficient harm to the health, safety, or welfare of the public to
21 warrant the regulation proposed;

22 (iii) Why the proposed licensing or other regulation is the least
23 restrictive regulation necessary to protect against present, rec-
24 ognizable, and sufficient harm to the health, safety, or welfare
25 of the public to warrant the regulation proposed;

26 (iv) Why the public cannot be effectively protected by other
27 means;

28 (v) Whether the overall cost-effectiveness and economic impact
29 of the proposed regulation, including the direct and indirect
30 costs to consumers, will be outweighed by the benefits of the pro-
31 posed licensing or other regulation;

32 (vi) Whether the proposed licensing or other regulation will have
33 an unreasonably negative effect on job creation, job retention, or
34 wages in the state or will place unreasonable restrictions on the
35 ability of individuals who seek to practice or who are practicing a
36 given profession or occupation to continue to practice or to find
37 employment; and

38 (vii) Any other relevant information.

39 (d) With respect to an application timely received by the legislative
40 services office by May 1:

41 (i) By August 1, the legislative services office shall submit a
42 report with factual analysis to the committee and the applicant.
43 Such report shall be made available to the public. Such report
44 shall verify the contents of an application and submitted informa-
45 tion and address any other related factual matters, but shall not
46 contain a recommendation.

47 (ii) By October 1, the committee shall review such application and
48 submitted information and the associated report prepared by the
49 legislative services office, along with any other relevant infor-

1 mation, and hold a ~~public hearing on~~ meeting to consider such ap-
2 plication.

3 (iii) By November 1, the committee shall prepare a written rec-
4 ommendation as to whether a requested occupation or profession
5 should be licensed in the manner set forth in the application and
6 shall deliver such recommendation to the president pro tempore
7 of the senate and the speaker of the house of representatives for
8 subsequent delivery to the appropriate germane committee chair-
9 persons. Such written recommendation may include nonmandatory
10 suggestions as to how the application, including the proposed
11 legislation, may be improved. An applicant receiving such sugges-
12 tions shall be encouraged to follow the recommended suggestions
13 of the committee before offering the legislation for introduction
14 during the next legislative session.

15 (e) The committee shall conduct sunrise reviews for two (2) years and
16 shall make a report to the first regular session of the sixty-seventh
17 Idaho legislature in 2023. The legislature may take subsequent action
18 to extend the duration of the committee's sunrise review responsibili-
19 ties or to make them permanent.

20 (5) Beginning in 2022, the committee shall engage in a process of re-
21 viewing each licensing authority on a rotating basis. Review of a licensing
22 authority shall include review of the existing laws and regulations related
23 to a licensing authority.

24 (a) The sunset review process established by this subsection shall be
25 conducted as follows:

26 (i) Licensing authorities shall be divided into six (6) groups to
27 be determined by the committee;

28 (ii) The committee shall endeavor to review at least one (1) group
29 each year, depending on the priorities and workload of the commit-
30 tee;

31 (iii) Each licensing authority shall be reviewed at least every
32 five (5) years; and

33 (iv) A licensing authority may be reviewed out of the rotating ba-
34 sis if the governor or a member of the legislature make a written
35 request to the committee and the cochairs of the committee approve
36 such request.

37 (b) After all groups have been reviewed one (1) time, the committee
38 shall continue to review the groups as described in this subsection and
39 according to the priorities and workload of the committee.

40 (c) The review process shall include an opportunity for stakeholder
41 participation.

42 (d) Upon completion of the review process established in this section,
43 the committee shall issue a report regarding its findings. The report
44 shall include the committee's findings as to whether, with respect to
45 each licensing authority under consideration:

46 (i) The existing licensing or other regulation is necessary to
47 protect against present, recognizable, and sufficient harm to the
48 health, safety, or welfare of the public to warrant the regula-
49 tion;

- 1 (ii) The existing licensing or other regulation is the least re-
2 strictive regulation necessary to protect against present, recog-
3 nizable, and sufficient harm to the health, safety, or welfare of
4 the public to warrant the regulation proposed;
5 (iii) The public can be effectively protected by other means;
6 (iv) The overall cost-effectiveness and economic impact of the
7 existing licensing or other regulation of the profession or occu-
8 ipation, including the direct and indirect costs to consumers, is
9 outweighed by the benefits of the licensing or other regulation;
10 (v) The existing licensing or other regulation has had an unrea-
11 sonably negative effect on job creation, job retention, or wages
12 in the state or has placed unreasonable restrictions on the abil-
13 ity of individuals who seek to practice or who are practicing a
14 given profession or occupation to continue to practice or to find
15 employment; and
16 (vi) Other relevant information should be considered.
17 (e) Based on the committee's findings with respect to the factors pro-
18 vided in paragraph (d) with respect to each licensing authority under
19 review, the committee's report shall include a recommendation as to
20 whether:
21 (i) The existing licensing or other regulation should be re-
22 pealed;
23 (ii) The existing licensing or other regulation should be amended
24 to reduce barriers to licensure; or
25 (iii) Other legislative reforms are recommended.
26 (f) In the event the committee members cannot agree upon the findings
27 contained in the report, the majority and minority may each make a re-
28 port.
29 (g) The committee is authorized to draft legislation regarding recom-
30 ended legislative actions, if any, and may attach such draft legisla-
31 tion to its report or reports.
32 (h) Upon completion of the review process established in this section,
33 the committee shall deliver its report, along with any related draft
34 legislation, to the president pro tempore of the senate and the speaker
35 of the house of representatives for subsequent delivery to the appro-
36 priate germane committee chairpersons.
37 (i) A germane committee of the legislature shall not be bound by a rec-
38 ommendation of the committee.