

IN THE SENATE

SENATE BILL NO. 1109

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE OCCUPATIONAL LICENSING REFORM ACT; AMENDING SECTION 67-9408, IDAHO CODE, TO REVISE PROVISIONS REGARDING SUNRISE AND SUNSET REVIEW; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

67-9408. OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE. (1) In order to establish oversight of occupational and professional licensure and related issues in Idaho, there is hereby established an occupational and professional licensure review committee.

(2) The committee shall consist of eight (8) members, with four (4) members from the senate, one (1) of whom shall be cochair of the committee, and four (4) members from the house of representatives, one (1) of whom shall be cochair of the committee. Members from the senate shall be appointed by the president pro tempore of the senate, and members from the house of representatives shall be appointed by the speaker of the house of representatives. No more than three (3) members from the senate and no more than three (3) members from the house of representatives shall be from the same political party. Appointments to the committee shall be for the term of office of the member appointed. Any vacancy shall be filled in a manner consistent with the appointment procedure set forth in this subsection, except the appointment shall be for the remainder of the unexpired term. A committee member may be reappointed to the committee.

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

(4) Beginning January 1, 2021, the committee shall conduct a sunrise review upon request that a lawful profession or occupational group that is not licensed become licensed. For purposes of this section, a profession or occupation becoming "licensed" means adding a requirement that a person must hold a license, certificate, registration, permit, or other authorization issued by a licensing authority to engage in such profession or occupation. Sunrise review by the committee shall be required prior to the introduction of any proposed legislation that a lawful profession or occupational group that is not licensed become licensed; provided, however, that a germane committee of the legislature later considering such proposed legisla-

1 tion shall not be bound by the recommendation of the committee. The sunrise
2 review process shall be as follows:

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

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

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

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

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

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

23 (iv) Why the public cannot be effectively protected by other
24 means;

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

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

35 (vii) Any other relevant information.

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

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

44 (ii) By October 1, the committee shall review such application and
45 submitted information and the associated report prepared by the
46 legislative services office, along with any other relevant infor-
47 mation, and hold a meeting to consider such application.

48 (iii) By November 1, the committee shall prepare a written rec-
49 ommendation as to whether a requested occupation or profession
50 should be licensed in the manner set forth in the application and

1 shall deliver such recommendation to the president pro tempore
 2 of the senate and the speaker of the house of representatives for
 3 subsequent delivery to the appropriate germane committee chair-
 4 persons. Such written recommendation may include nonmandatory
 5 suggestions as to how the application, including the proposed
 6 legislation, may be improved. An applicant receiving such sugges-
 7 tions shall be encouraged to follow the recommended suggestions
 8 of the committee before offering the legislation for introduction
 9 during the next legislative session.

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

15 (5) ~~Beginning in 2022, the~~ The committee shall develop a process to con-
 16 duct a sunset review of each licensing authority licensing authorities on a
 17 rotating basis. Review of a licensing authority shall include review of the
 18 existing laws and regulations related to a licensing authority.

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

21 (i) Licensing authorities shall be divided into ~~six (6)~~ groups to
 22 be determined by the committee;

23 (ii) After developing the sunset review process, the ~~The~~ commit-
 24 tee shall endeavor to review at least one (1) group each year, de-
 25 pending on the priorities and workload of the committee;

26 (iii) Each licensing authority shall be reviewed at least every
 27 ~~five (5)~~ ten (10) years; and

28 (iv) A licensing authority may be reviewed out of order if the gov-
 29 ernor or a member of the legislature makes a written request to the
 30 committee and the cochairs of the committee approve such request;
 31 and

32 (v) Each licensing authority under review shall submit informa-
 33 tion to the committee to facilitate the committee's evaluation of
 34 the factors set forth in paragraph (d) of this subsection.

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

38 (c) The review process shall include an opportunity for stakeholder
 39 participation, in such manner as determined by the committee.

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

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

48 (ii) The existing licensing or other regulation is the least re-
 49 strictive regulation necessary to protect against present, recog-

1 nizable, and sufficient harm to the health, safety, or welfare of
2 the public to warrant the regulation proposed;

3 (iii) The public can be effectively protected by other means;

4 (iv) The overall cost-effectiveness and economic impact of the
5 existing licensing or other regulation of the profession or occu-
6 pation, including the direct and indirect costs to consumers, is
7 outweighed by the benefits of the licensing or other regulation;

8 (v) The existing licensing or other regulation has had an unrea-
9 sonably negative effect on job creation, job retention, or wages
10 in the state or has placed unreasonable restrictions on the abil-
11 ity of individuals who seek to practice or who are practicing a
12 given profession or occupation to continue to practice or to find
13 employment; and

14 (vi) Other relevant information should be considered.

15 (e) Based on the committee's findings with respect to the factors pro-
16 vided in paragraph (d) of this subsection with respect to each licensing
17 authority under review, the committee's report shall include a recom-
18 mendation as to whether:

19 (i) The existing licensing or other regulation should be re-
20 pealed;

21 (ii) The existing licensing or other regulation should be amended
22 to reduce barriers to licensure;

23 (iii) Other legislative reforms are recommended; or

24 (iv) No legislative reforms are recommended.

25 (f) The committee is authorized to draft legislation regarding recom-
26 mended legislative actions, if any, and may attach such draft legisla-
27 tion to its report.

28 (g) Upon completion of the review process established in this section,
29 the committee shall deliver its report, along with any related draft
30 legislation, to the president pro tempore of the senate and the speaker
31 of the house of representatives for subsequent delivery to the appro-
32 priate germane committee chairs.

33 (h) A germane committee of the legislature shall not be bound by a rec-
34 ommendation of the committee.

35 SECTION 2. An emergency existing therefor, which emergency is hereby
36 declared to exist, this act shall be in full force and effect on and after
37 July 1, 2023.