

Regulatory Oversight Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill provides additional mechanisms for the oversight of state executive agencies.

Highlighted Provisions:

This bill:

- defines terms;
- provides circumstances when the Office of Professional Licensure Review (office) shall document and justify the office's basis for the office's decision resulting from the review;
- allows an individual to petition the office to repeal or modify any occupational regulation within the office's jurisdiction;
- creates a process for an individual to appeal the office's decision after a request to repeal or modify;
- provides a limit on the cost of implementing an agency generated rule; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-1b-101, as enacted by Laws of Utah 2022, Chapter 413

13-1b-302, as enacted by Laws of Utah 2022, Chapter 413

63G-3-102, as last amended by Laws of Utah 2021, Chapter 344

63G-3-301, as last amended by Laws of Utah 2024, Chapter 178

72-16-203, as last amended by Laws of Utah 2021, Chapter 267

ENACTS:

13-1b-401, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-1b-101** is amended to read:

13-1b-101 . Definitions.

As used in this chapter:

- (1) "Department" means the Department of Commerce.
- (2) "Director" means the director of the office.
- (3) "Executive director" means the executive director of the Department of Commerce.
- (4) "Government requestor" means:
 - (a) the governor;
 - (b) an executive branch officer other than the governor;
 - (c) an executive branch agency;
 - (d) a legislator; or
 - (e) a legislative committee.
- (5) "Harm" means a present, recognizable, and significant harm to the health, safety, or financial welfare of the public.
- ~~[(5)]~~ (6) "Health, safety, or financial welfare of the public" includes protecting against physical injury, property damage, or financial harm of the public.
- ~~[(6)]~~ (7) "License" or "licensing" means a state-granted authorization for a person to engage in a specified occupation:
 - (a) based on the person meeting personal qualifications established under state law; and
 - (b) where state law requires the authorization before the person may lawfully engage in the occupation for compensation.
- ~~[(7)]~~ (8) "Newly regulate" means to create by statute or administrative rule a new license, certification, registration, or exemption classification regarding an occupation.
- ~~[(8)]~~ (9) "Occupation" means a course of conduct, pursuit, or profession that includes the sale of goods or services that are not illegal to sell, irrespective of whether the individual selling the goods or services is subject to an occupational regulation.
- ~~[(9)]~~ (10) "Office" means the Office of Professional Licensure Review created in this chapter.
- ~~[(10)]~~ (11) "Periodic review" means a review described in Subsection 13-1b-203(2).
- ~~[(11)]~~ (12)(a) "Personal qualifications" means criteria established in state law related to an individual's background.
 - (b) "Personal qualifications" includes:
 - (i) completion of an approved education program;

(ii) satisfactory performance on an examination;

(iii) work experience; and

(iv) completion of continuing education.

[(12)] (13) "Regulated occupation" means an occupation that:

(a) requires a person to obtain a license to practice the occupation; or

(b) provides for state certification or state registration.

[(13)] (14) "State certification" means a state-granted authorization given to a person to use the term "state certified" as part of a designated title related to engaging in a specified occupation:

(a) based on the person meeting personal qualifications established under state law; and

(b) where state law prohibits a noncertified person from using the term "state certified" as part of a designated title but does not otherwise prohibit a noncertified person from engaging in the occupation for compensation.

[(14)] (15) "State registration" means a state-granted authorization given to a person to use the term "state registered" as part of a designated title related to engaging in a specified occupation:

(a) based on the person meeting requirements established under state law, which may include the person's name and address, the person's agent for service of process, the location of the activity to be performed, and bond or insurance requirements;

(b) where state law does not require the person to meet any personal qualifications; and

(c) where state law prohibits a nonregistered person from using the term "state registered" as part of a designated title.

[(15)] (16) "Sunrise review" means a review under this chapter of an application to establish a new regulated occupation.

Section 2. Section **13-1b-302** is amended to read:

13-1b-302 . Review criteria.

~~[In conducting a sunrise review or a periodic review, unless otherwise directed in accordance with Subsection 13-1b-203(3), the office shall consider the following criteria:]~~ The office shall consider the following criteria in conducting a sunrise review or a periodic review:

(1) whether the regulation of the occupation is necessary to address a ~~[present, recognizable, and significant harm to the health, safety, or financial welfare of the public]~~ harm;

(2) ~~[for any harm to the health, safety, or financial welfare of the public,]~~ if the office determines that a regulation is necessary to address a harm, the office shall determine

99 and record the harm's:

100 (a) severity;

101 (b) probability; and

102 (c) permanence;

103 (3) if the office determines that a regulation is necessary to address a harm, the office shall:

104 (a) determine the extent to which the proposed or existing regulation of the occupation
105 protects against or diminishes the harm described in Subsection (1);

106 (b) articulate the harm with specificity; and

107 (c) document the office's findings in response to Subsections (2)(a) through (2)(c);

108 (4) whether the proposed or existing regulation of the occupation:

109 (a) affects the supply of qualified practitioners;

110 (b) creates barriers to:

111 (i) a service [that are] when the barrier is not in the public financial welfare or
112 interest; or

113 (ii) entry into the occupation[-or related occupations];

114 (c) imposes new costs on existing practitioners;

115 (d) affects:

116 (i) license reciprocity with other jurisdictions; or

117 (ii) mobility of practitioners; or

118 (e) if the occupation involves a health care provider, impacts the health care provider's

119 ability to obtain payment of benefits for the health care provider's treatment of an

120 illness, injury, or health care condition under an insurance contract subject to Section

121 31A-22-618;

122 (5) if the review involves licensing, the potential alternative pathways for ~~[a person]~~ an
123 individual to obtain a license;

124 (6) the costs to the state of regulating the occupation;

125 (7) whether the proposed or existing administering agency has sufficient expertise and
126 resources;

127 (8) the regulation of the occupation in other jurisdictions;

128 (9) the scope of the proposed or existing regulation, including:

129 (a) whether the occupation is clearly distinguishable from an already regulated
130 occupation; and

131 (b) potential for regulating only certain occupational activities;

132 (10) the potentially less burdensome alternatives to the proposed or existing regulation and

the effect of implementing an alternative method of regulation on:

(a) the health, safety, or financial welfare of the public;

(b) the occupation; and

(c) practitioners of the occupation; and

(11) any other criteria the office adopts, including criteria suggested in a stakeholder survey.

Section 3. Section **13-1b-401** is enacted to read:

Part 4. Enforcement

13-1b-401 . Enforcement.

(1)(a) An individual may petition the office to repeal or modify an occupational regulation within the office's jurisdiction.

(b) Within 90 days after the day on which an individual petitions the office under Subsection (1)(a), the office shall:

(i) repeal the occupational regulation;

(ii) state the basis on which the office concludes that the regulation addresses the harm; or

(iii) modify the regulation to address the harm with a less burdensome alternative regulation or other means that is less burdensome than the regulation.

(2)(a) An individual who petitions the office under Subsection (1)(a) may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, challenging an occupational regulation upon which the petition is based if:

(i) the office fails to comply with Subsection (1)(b); or

(ii) if the individual disagrees with the action taken by the office in response to the petition.

(b) An individual shall bring an action within 180 days after the day on which the individual petitions the office under Subsection (1)(a).

(c) The individual may bring an action in accordance with Subsection (2)(a) without exhausting remedies available under Title 63G, Chapter 4, Administrative Procedures Act.

(3) A court shall enjoin enforcement of the challenged occupational regulation if the court finds that:

(a) the challenged occupational regulation is not necessary to address a harm; or

(b) the office could address the harm through an occupational regulation or other means that is less burdensome than the challenged occupational regulation.

- 167 (4) If the court enjoins enforcement of the challenged occupational regulation, the court
168 may award reasonable attorney fees and costs to the plaintiff.

169 Section 4. Section **63G-3-102** is amended to read:

170 **63G-3-102 . Definitions.**

171 As used in this chapter:

- 172 (1) "Administrative record" means information an agency relies upon when making a rule
173 under this chapter including:

- 174 (a) the proposed rule, change in the proposed rule, and the rule analysis form;
175 (b) the public comment received and recorded by the agency during the public comment
176 period;
177 (c) the agency's response to the public comment;
178 (d) the agency's analysis of the public comment; and
179 (e) the agency's report of [its] the agency's decision-making process.

- 180 (2)(a) "Agency" [means] includes:

181 (i) each state board, authority, commission, institution, department, division, or officer[;] ;
182 or

183 (ii) any other state government entity [other than the Legislature, its committees, the
184 political subdivisions of the state, or the courts, which] that is authorized or
185 required by law to make rules, adjudicate, grant or withhold licenses, grant or
186 withhold relief from legal obligations, or perform other similar actions or duties
187 delegated by law.

- 188 (b) "Agency" does not include:

- 189 (i) the Legislature;
190 (ii) the Legislature's committees;
191 (iii) the political subdivisions of the state; or
192 (iv) the courts.

- 193 (3) "Bulletin" means the Utah State Bulletin.

- 194 (4) "Catchline" means a short summary of each section, part, rule, or title of the code that
195 follows the section, part, rule, or title reference placed before the text of the rule and
196 serves the same function as boldface in legislation as described in Section 68-3-13.

- 197 (5) "Code" means the body of all effective rules as compiled and organized by the office
198 and entitled "Utah Administrative Code."

- 199 (6) "Department" means the Department of Government Operations created in Section
200 63A-1-104.

- (7) "Director" means the director of the office.
- (8) "Effective" means operative and enforceable.
- (9) "Executive director" means the executive director of the department.
- (10) "File" means to submit a document to the office as prescribed by the office.
- (11) "Filing date" means the day and time the document is recorded as received by the office.
- (12) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.
- (13) "Office" means the Office of Administrative Rules created in Section 63G-3-401.
- (14) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.
- (15) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.
- (16) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.
- (17) "Publication date" means the inscribed date of the bulletin.
- (18) "Register" may include an electronic database.
- (19)(a) "Rule" means an agency's written statement that:
- (i) is explicitly or implicitly required by state or federal statute or other applicable law;
 - (ii) implements or interprets a state or federal legal mandate; and
 - (iii) applies to a class of persons or another agency.
- (b) "Rule" includes the amendment or repeal of an existing rule.
- (c) "Rule" does not mean:
- (i) orders;
 - (ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;
 - (iii) the governor's executive orders or proclamations;
 - (iv) opinions issued by the attorney general's office;
 - (v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;
 - (vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or

- (vii) an agency written statement that is in violation of any state or federal law.
- (20) "Rule analysis" means the format prescribed by the office to summarize and analyze rules.
- (21) "Small business" means a business employing fewer than 50 persons.
- (22) "Substantial fiscal impact" means an anticipated fiscal impact of a proposed rule of at least \$1,000,000 over a five-year period ~~it~~ → [-on a single business or an individual] ← ~~it~~ .

[(22)] (23) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Section 5. Section **63G-3-301** is amended to read:

63G-3-301 . Rulemaking procedure.

- (1) An agency authorized to make rules is also authorized to amend or repeal those rules.
- (2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule, agencies shall comply with:
 - (a) the requirements of this section;
 - (b) consistent procedures required by other statutes;
 - (c) applicable federal mandates; and
 - (d) rules made by the office to implement this chapter.
- (3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.
- (4)(a) Each agency shall file the agency's proposed rule and rule analysis with the office.
- (b) Rule amendments shall be marked with new language underlined and deleted language struck out.
- (c)(i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.
- (ii) For rule amendments, only the section or subsection of the rule being amended need be printed.
- (iii) If the director determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.
- (5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Planning and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

- (a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;
- (b) the individual fiscal impact that would incur to a [typical] single business for a one-year period;
- (c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;
- (d) the total cost that would incur to all impacted entities over a five-year period; and
- (e) the department head's comments on the analysis.
- (6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:
- (a) establishing less stringent compliance or reporting requirements for small businesses;
- (b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) consolidating or simplifying compliance or reporting requirements for small businesses;
- (d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and
- (e) exempting small businesses from all or any part of the requirements contained in the proposed rule.
- (7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).
- (8) The rule analysis shall contain:
- (a) a summary of the rule or change;
- (b) the purpose of the rule or reason for the change;
- (c) the statutory authority or federal requirement for the rule;
- (d) the anticipated cost or savings to:
- (i) the state budget;
- (ii) local governments;
- (iii) small businesses; and
- (iv) persons other than small businesses, businesses, or local governmental entities;

- (e) the compliance cost for affected persons;
- (f) how interested persons may review the full text of the rule;
- (g) how interested persons may present their views on the rule;
- (h) the time and place of any scheduled public hearing;
- (i) the name and telephone number of an agency employee who may be contacted about the rule;
- (j) the name of the agency head or designee who authorized the rule;
- (k) the date on which the rule may become effective following the public comment period;
- (l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);
- (m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and
- (n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).
- (9)(a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:
- (i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and
- (ii) a summary of new substantive provisions appearing only in the enacted rule.
- (b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.
- (10) ~~[A-] An agency shall mail a copy of the rule analysis [shall be mailed to all persons who have made timely request]~~ to a person that makes a timely request of the agency for advance notice of the agency's rulemaking proceedings and to any other person ~~[who]~~ that, by statutory or federal mandate or in the judgment of the agency, should also receive notice.
- (11)(a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.
- (b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).
- (12)(a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is:

- 336 (i) no fewer than seven calendar days after the day on which the public comment
 337 period closes under Subsection (11); and
 338 (ii) no more than 120 days after the day on which the rule is published.
- 339 (b) The agency shall provide notice of the rule's effective date to the office in the form
 340 required by the office.
- 341 (c) The notice of effective date may not provide for an effective date before the day on
 342 which the office receives the notice.
- 343 (d) The office shall publish notice of the effective date of the rule in the next issue of the
 344 bulletin.
- 345 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is
 346 not filed with the office within 120 days after the day on which the rule is published.
- 347 (13)(a)(i) ~~[Except as provided in Subsection (13)(d), before]~~ Before an agency enacts
 348 a rule, the agency shall submit to the appropriations subcommittee and interim
 349 committee with jurisdiction over the agency the agency's proposed rule for review,
 350 if the proposed rule, over a ~~five~~ three-year ~~five-year~~ five-year period,
 350a has a fiscal impact of more than ~~five~~ one ~~\$1,000,000 statewide.~~ \$250,000 to a single person; or
 351 \$7,500,000 to a group of persons.
 352 (ii) A proposed rule that is subject to Subsection (13)(d) is exempt from Subsection
 353 (13)(a)(i).
- 354 (b) An appropriations subcommittee or interim committee that reviews a rule ~~[submitted]~~
 355 an agency submits under Subsection (13)(a) shall:
 356 (i) before the review, directly inform the chairs of the Rules Review and General
 357 Oversight Committee of the coming review, including the date, time, and place of
 358 the review; and
 359 (ii) after the review, directly inform the chairs of the Rules Review and General
 360 Oversight Committee of the outcome of the review, including any
 361 recommendation.
- 362 (c) An appropriations subcommittee or interim committee that reviews a rule ~~[submitted]~~
 363 an agency submits under Subsection (13)(a) may recommend to the Rules Review
 364 and General Oversight Committee that the Rules Review and General Oversight
 365 Committee not recommend reauthorization of the rule in the legislation described in
 366 Section 63G-3-502.
- 367 (d) Unless an agency cannot implement a statute ~~or~~ execute a federally delegated

authority ←~~§~~ without making a rule that is estimated

to have substantial fiscal impact, the agency may not make the rule.

(e) The agency shall calculate the substantial fiscal impact in accordance with Subsection (5).

~~[(d)]~~ (f) The requirement described in ~~[Subsection (13)(a) does]~~ Subsections (13)(a) and (13)(b) do not apply to:

(i) the State Tax Commission; or

(ii) the State Board of Education.

(14)(a) As used in this Subsection (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection (14)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Rules Review and General Oversight Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (14)(b), the state agency shall appear before the legislative Rules Review and General Oversight Committee and provide the reasons for the delay.

Section 6. Section **72-16-203** is amended to read:

72-16-203 . Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter the committee may make rules:

(a) establishing:

(i) the form of an application and a renewal application for:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(ii) the procedure to apply for and renew:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

- 402 (C) a multi-ride annual amusement ride permit;
- 403 (iii) standards for a daily inspection under Section 72-16-302;
- 404 (iv) the form of a report of a reportable serious injury to the director;
- 405 (v) the procedure for reporting a reportable serious injury to the director;
- 406 (vi) the procedure to suspend and revoke:
- 407 (A) a qualified safety inspector certification;
- 408 (B) an annual amusement ride permit; and
- 409 (C) a multi-ride annual amusement ride permit;
- 410 (vii) a retention schedule that applies to each qualified safety inspector for records
- 411 related to a qualified safety inspector's duties under this chapter;
- 412 (viii) a retention schedule that applies to each owner-operator for records related to
- 413 an owner-operator's duties under this chapter;
- 414 (ix) fees;
- 415 (x) minimum insurance requirements for certified inspectors; and
- 416 (xi) fines or administrative penalties for lack of compliance with this chapter[.] ;
- 417 (b) regarding the experience required to obtain a qualified safety inspector certification
- 418 under Subsection 72-16-303(3)(a); and
- 419 (c) adopting nationally recognized:
- 420 (i) amusement ride inspection standards; and
- 421 (ii) qualified safety inspector qualification standards.
- 422 (2) Notwithstanding Subsection [~~63G-3-301(13)~~, ~~no later than December 1, 2020,~~]
- 423 63G-3-301(14), the committee shall initiate rulemaking proceedings, as defined in
- 424 Section 63G-3-301, to make rules under this section.

425 **Section 7. Effective Date.**

426 This bill takes effect on May 7, 2025.