

**LICENSING AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill addresses proposed and existing regulated occupations.

**Highlighted Provisions:**

This bill:

- ▶ creates the Office of Occupational and Professional Licensure Review (office);
- ▶ defines terms;
- ▶ requires the office to:
  - conduct a sunrise review for each application to establish a new regulated occupation;
  - review each regulated occupation at least once every 10 years; and
  - review and respond to each legislator inquiry regarding an occupational licensing matter;
- ▶ establishes criteria for conducting a sunrise review or periodic review;
- ▶ provides legislative oversight of the scheduling and scope of each periodic review;
- ▶ requires the office to annually prepare and submit a written report to the Business and Labor Interim Committee; and
- ▶ repeals the Occupational and Professional Licensure Review Committee Act.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**13-1b-101**, Utah Code Annotated 1953

**13-1b-102**, Utah Code Annotated 1953

**13-1b-103**, Utah Code Annotated 1953

**13-1b-201**, Utah Code Annotated 1953

33           **13-1b-202**, Utah Code Annotated 1953  
 34           **13-1b-203**, Utah Code Annotated 1953  
 35           **13-1b-301**, Utah Code Annotated 1953  
 36           **13-1b-302**, Utah Code Annotated 1953  
 37           **13-1b-303**, Utah Code Annotated 1953  
 38           **13-1b-304**, Utah Code Annotated 1953

39 REPEALS:

40           **36-23-101**, as enacted by Laws of Utah 1999, Chapter 152  
 41           **36-23-101.5**, as last amended by Laws of Utah 2019, Chapter 276  
 42           **36-23-102**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307  
 43           **36-23-103**, as last amended by Laws of Utah 2013, Chapter 323  
 44           **36-23-104**, as last amended by Laws of Utah 2014, Chapter 387  
 45           **36-23-105**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307  
 46           **36-23-106**, as last amended by Laws of Utah 2018, Chapter 281 and last amended by  
 47           Coordination Clause, Laws of Utah 2018, Chapter 307  
 48           **36-23-107**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307  
 49           **36-23-108**, as enacted by Laws of Utah 1999, Chapter 152  
 50           **36-23-109**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307  
 51           **58-1-110**, as enacted by Laws of Utah 2013, Chapter 323

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

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

55                   **CHAPTER 1b. OFFICE OF OCCUPATIONAL AND PROFESSIONAL**  
 56                                   **LICENSURE REVIEW**

57                                   **Part 1. General Provisions**

58           **13-1b-101. Title.**

59           This chapter is known as the "Office of Occupational and Professional Licensure  
 60 Review."

61           Section 2. Section **13-1b-102** is enacted to read:

62           **13-1b-102. Definitions.**

63           As used in this chapter:

- 64           (1) "Department" means the Department of Commerce.
- 65           (2) "Director" means the director of the office.
- 66           (3) "Executive director" means the executive director of the Department of Commerce.
- 67           (4) "Health, safety, or welfare of the public" includes protecting against physical injury,  
68 property damage, or financial harm of the public.
- 69           (5) "License" or "licensing" means a state-granted authorization for a person to engage  
70 in a specified occupation:
- 71           (a) based on the person meeting personal qualifications established under state law;  
72 and
- 73           (b) where state law requires the authorization before the person may lawfully engage in  
74 the occupation for compensation.
- 75           (6) "Newly regulate" means to create by statute or administrative rule a new license,  
76 certification, registration, or exemption classification regarding an occupation.
- 77           (7) "Occupation" means a course of conduct, pursuit, or profession that includes the  
78 sale of goods or services that are not illegal to sell, irrespective of whether the individual  
79 selling the goods or services is subject to an occupational regulation.
- 80           (8) "Office" means the Office of Occupational and Professional Licensure Review  
81 created in this chapter.
- 82           (9) "Periodic review" means a review described in Subsection 13-1b-203(2).
- 83           (10) (a) "Personal qualifications" means criteria established in state law related to an  
84 individual's background.
- 85           (b) "Personal qualifications" includes:
- 86           (i) completion of an approved education program;
- 87           (ii) satisfactory performance on an examination;
- 88           (iii) work experience; and
- 89           (iv) completion of continuing education.
- 90           (11) "Regulated occupation" means an occupation that:
- 91           (a) requires a person to obtain a license to practice the occupation; or
- 92           (b) provides for state certification or state registration.
- 93           (12) "State certification" means a state-granted authorization given to a person to use  
94 the term "state certified" as part of a designated title related to engaging in a specified

95 occupation:

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

97 and

98 (b) where state law prohibits a noncertified person from using the term "state certified"

99 as part of a designated title but does not otherwise prohibit a noncertified person from engaging  
100 in the occupation for compensation.

101 (13) "State registration" means a state-granted authorization given to a person to use  
102 the term "state registered" as part of a designated title related to engaging in a specified

103 occupation:

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

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

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

110 (14) "Sunrise review" means a review under this chapter of an application to establish a  
111 new regulated occupation.

112 Section 3. Section **13-1b-103** is enacted to read:

113 **13-1b-103. Applicability.**

114 This chapter applies to any regulation of an occupation that is administered by a state  
115 executive branch agency.

116 Section 4. Section **13-1b-201** is enacted to read:

117 **Part 2. Organization**

118 **13-1b-201. Creation of office -- Director appointed -- Personnel.**

119 (1) There is created within the department the Office of Occupational and Professional  
120 Licensure Review to perform the functions and duties described in this chapter.

121 (2) The office is under the direction and control of a director appointed by the  
122 executive director with approval of the governor.

123 (3) The executive director shall establish the salary of the director in accordance with  
124 standards established by the Division of Human Resource Management.

125 Section 5. Section **13-1b-202** is enacted to read:

126 **13-1b-202. Powers of the director and the office.**

127 (1) The director may employ personnel necessary to carry out the duties and  
128 responsibilities of the office at salaries determined by the executive director in accordance with  
129 standards established by the Division of Human Resource Management.

130 (2) The office may:

131 (a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
132 Rulemaking Act, to administer the responsibilities of the office described in this chapter,  
133 including rules creating criteria for conducting a sunrise review or a periodic review;

134 (b) make recommendations to other state executive branch agencies regarding  
135 regulated occupations; and

136 (c) survey stakeholders regarding appropriate criteria for conducting a sunrise review  
137 or a periodic review.

138 (3) A state executive branch agency may adopt or reject a recommendation described  
139 in Subsection (2)(b).

140 Section 6. Section **13-1b-203** is enacted to read:

141 **13-1b-203. Duties.**

142 The office shall:

143 (1) for each application submitted in accordance with Section 13-1b-301, conduct a  
144 sunrise review in accordance with Section 13-1b-302 before November 1:

145 (a) of the year in which the application is submitted, if the application is submitted on  
146 or before July 1; or

147 (b) of the subsequent year, if the application is submitted after July 1;

148 (2) beginning in 2023 and in accordance with Section 13-1b-303, conduct a review of  
149 each regulated occupation at least once every 10 years;

150 (3) review and respond to any legislator inquiry regarding a proposed or existing  
151 regulated occupation; and

152 (4) report to the Business and Labor Interim Committee in accordance with Section  
153 13-1b-304.

154 Section 7. Section **13-1b-301** is enacted to read:

155 **Part 3. Office Review and Reporting**

156 **13-1b-301. Application for sunrise review -- Fees.**

157 (1) If a representative of an occupation that is not a regulated occupation proposes that  
158 the state make the occupation a regulated occupation, the representative shall submit an  
159 application for sunrise review to the office in a form the office prescribes.

160 (2) The application described in Subsection (1) shall describe:

161 (a) why making the occupation a regulated occupation is necessary to protect against  
162 present, recognizable, and significant harm to the health, safety, or welfare of the public; and

163 (b) the least restrictive regulation of the occupation that would protect against present,  
164 recognizable, and significant harm to the health, safety, or welfare of the public.

165 (3) An application submitted in accordance with this section shall include a  
166 nonrefundable fee of \$500.

167 (4) All application fees collected under this section shall be deposited into the General  
168 Fund.

169 Section 8. Section **13-1b-302** is enacted to read:

170 **13-1b-302. Review criteria.**

171 In conducting a sunrise review or a periodic review, the office may consider the  
172 following criteria:

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

175 (2) whether any harm to the health, safety, or welfare of the public is:

176 (a) severe;

177 (b) probable; or

178 (c) permanent;

179 (3) the extent to which the proposed or existing regulation of the occupation protects  
180 against or diminishes the harm described in Subsection (1);

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

182 (a) affects the supply of qualified practitioners;

183 (b) creates barriers to:

184 (i) service that are not in the public welfare or interest; or

185 (ii) entry into the occupation or related occupations;

186 (c) imposes new costs on existing practitioners;

187 (d) affects:

- 188            (i) license reciprocity with other jurisdictions; or  
189            (ii) mobility of practitioners; or  
190            (e) if the occupation involves a health care provider, impacts the health care provider's  
191 ability to obtain payment of benefits for the health care provider's treatment of an illness,  
192 injury, or health care condition under an insurance contract subject to Section 31A-22-618;  
193            (5) if the review involves licensing, the potential alternative pathways for licensure;  
194            (6) the costs to the state of regulating the occupation;  
195            (7) whether the proposed or existing administering agency has sufficient expertise and  
196 resources;  
197            (8) the regulation of the occupation in other jurisdictions;  
198            (9) the scope of the proposed or existing regulation, including:  
199            (a) whether the occupation is clearly distinguishable from an already regulated  
200 occupation; and  
201            (b) potential for regulating only certain occupational activities;  
202            (10) the potential alternatives to the proposed or existing regulation and the effect of  
203 implementing an alternative method of regulation on:  
204            (a) the health, safety, or welfare of the public;  
205            (b) the occupation; and  
206            (c) practitioners of the occupation; and  
207            (11) any other criteria the office adopts, including criteria suggested in a stakeholder  
208 survey.

209            Section 9. Section **13-1b-303** is enacted to read:

210            **13-1b-303. Legislative prioritization of reviews.**

211            (1) Before October 1 of each year, the office shall prepare and submit to the Business  
212 and Labor Interim Committee a list of each periodic review that the office proposes to conduct  
213 during the upcoming year, including the scope of each periodic review.

214            (2) Before December 1 of the calendar year in which the office submits a list under  
215 Subsection (1), the Business and Labor Interim Committee shall:

- 216            (a) approve the list, with or without modification; and  
217            (b) submit a copy of the approved list to the Legislative Management Committee for  
218 approval, with or without modification.

219 Section 10. Section **13-1b-304** is enacted to read:

220 **13-1b-304. Reporting.**

221 (1) Beginning in 2024, before October 1, the office shall annually prepare and submit a  
222 written report to the Business and Labor Interim Committee that describes the office's work  
223 during the prior year.

224 (2) In a written report described in Subsection (1), the office shall include:

225 (a) a summary of each periodic review, each sunrise review, and each response to a  
226 legislator inquiry; and

227 (b) each recommendation the office made to another state executive branch agency  
228 regarding a regulated occupation.

229 Section 11. **Repealer.**

230 This bill repeals:

231 Section **36-23-101, Title.**

232 Section **36-23-101.5, Definitions.**

233 Section **36-23-102, Occupational and Professional Licensure Review Committee.**

234 Section **36-23-103, Committee terms -- Vacancies.**

235 Section **36-23-104, Committee meetings -- Compensation -- Quorum -- Legislative**  
236 **rules.**

237 Section **36-23-105, Applications -- Fees.**

238 Section **36-23-106, Duties -- Reporting.**

239 Section **36-23-107, Sunrise or sunset review -- Criteria.**

240 Section **36-23-108, Staff support.**

241 Section **36-23-109, Review of state regulation of occupations.**

242 Section **58-1-110, Legislative review in Title 58, Occupations and Professions.**