

GOLDWATER

I N S T I T U T E

February 23, 2024
Rep. A. Cory Maloy
Chairman, House Business and Labor Committee

Chairman Maloy and Members of the House Business and Labor Committee:

On behalf of the Goldwater Institute, I am writing to submit public comment on HB 508. HB 508 would create a pathway for individuals to petition the Office of Professional Licensure Review to repeal or modify regulations that fail to meet the occupational regulation review standards articulated in Section 13-1b-302. Further, if the Office fails to respond to the petition in a timely manner or reaches a conclusion that the petitioner disagrees with, then the petitioner may challenge the regulation in court.

This bill recognizes the right to earn a living as a civil right that undergirds the fabric of our constitutional republic while also preserving the ability of Utah regulatory agencies to protect the public through *legitimate* and *proportionate* health, safety and welfare regulations. Tennessee, Arizona, and Louisiana each have similar laws protecting this foundational right.

In states that have passed similar measures, regulatory agencies are taking a more deliberate, measured approach to regulating occupations. The laws have not resulted in an explosion of litigation due to the “cause of action” provision, and agencies have not been overwhelmed with petitions to review regulations. Instead, agencies are more likely to proactively remove inappropriate regulations with questionable objectives, thus avoiding potential petitions and litigation.

When government restricts economic liberty and limits entry into an industry, the legal burden of proving the occupational rule to be an overreach is often insurmountable. By default, the legal burden falls on the worker to prove that the regulation is excessive, and courts generally defer to the government. HB 508 offers a fair solution to this problem by creating a pathway to identify burdensome regulations to OPLR and a meaningful right to challenge those regulations in court. The Goldwater Institute applauds the Utah legislature for its continued leadership on occupational licensing reform and for considering such an impactful measure.

Sincerely,
Brian Norman
Director of State Affairs

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