

Chapter 1

Department of Commerce

13-1-1 Legislative findings and declarations.

The Legislature finds that many businesses and occupations in the state have a pronounced physical and economic impact on the health, safety, and welfare of the citizens of the state. The Legislature further finds that while the overall impact is generally beneficial to the public, the potential for harm and injury frequently warrants intervention by state government.

The Legislature declares that it is appropriate and necessary for state government to protect its citizens from harmful and injurious acts by persons offering or providing essential or necessary goods and services to the general public. The Legislature further declares that business regulation should not be unfairly discriminatory. However, the general public interest shall be recognized and regarded as the primary purpose of all regulation by state government.

Amended by Chapter 378, 2010 General Session

13-1-2 Creation and functions of department -- Divisions created -- Fees -- Commerce Service Account.

- (1)
 - (a) There is created the Department of Commerce.
 - (b) The department shall:
 - (i) execute and administer state laws regulating business activities and occupations affecting the public interest; and
 - (ii) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:
 - (A) under this title;
 - (B) by the department; or
 - (C) by an agency or division within the department.
- (2) Within the department the following divisions are created:
 - (a) the Division of Professional Licensing;
 - (b) the Division of Real Estate;
 - (c) the Division of Securities;
 - (d) the Division of Public Utilities;
 - (e) the Division of Consumer Protection; and
 - (f) the Division of Corporations and Commercial Code.
- (3)
 - (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.
 - (b) The department shall submit each fee established in this manner to the Legislature for the Legislature's approval as part of the department's annual appropriations request.
 - (c)
 - (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."
 - (ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.

- (iii) The undesignated account balance may not exceed \$1,000,000 at the end of each fiscal year.
 - (iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to maintain the undesignated account balance at \$1,000,000.
 - (d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.
- (4)
- (a) As used in this Subsection (4):
 - (i) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.
 - (ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in Subsection (4)(c).
 - (iii) "Renewal fee" means a fee that the Division of Corporations and Commercial Code, established in Section 13-1a-1, is authorized or required to charge a business entity in connection with the business entity's periodic renewal of the business entity's status with the Division of Corporations and Commercial Code.
 - (iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the establishment and maintenance of the single sign-on business portal.
 - (v) "Single sign-on business portal" means the same as that term is defined in Section 63A-16-802.
 - (b)
 - (i) The schedule of fees adopted by the department under Subsection (3) shall include a single sign-on fee, not to exceed \$5, as part of a renewal fee.
 - (ii) The department shall deposit all single sign-on fee revenue into the fund.
 - (c)
 - (i) There is created the Single Sign-On Expendable Special Revenue Fund.
 - (ii) The fund consists of:
 - (A) money that the department collects from the single sign-on fee; and
 - (B) money that the Legislature appropriates to the fund.
 - (d) The department shall use the money in the fund to pay for costs:
 - (i) to design, create, operate, and maintain the single sign-on business portal; and
 - (ii) incurred by:
 - (A) the Department of Technology Services, created in Section 63A-16-103; or
 - (B) a third-party vendor working under a contract with the Department of Technology Services.
 - (e) The department shall report on fund revenues and expenditures to the Public Utilities, Energy, and Technology Interim Committee of the Legislature annually and at any other time requested by the committee.
- (5)
- (a) As used in this Subsection (5):
 - (i) "Costs of electronic payments" means:
 - (A) any charge, discount fee, or processing fee that a credit card company or processing agent charges to process an electronic payment; or
 - (B) the costs associated with the purchase of equipment necessary for processing electronic payments.
 - (ii) "Electronic payment" means any form of payment processed through electronic means, including a credit card, debit card, or automatic clearinghouse transaction.

- (iii) "Electronic payment fee" means the fee the department adopts in accordance with this Subsection (5) to defray the costs of electronic payments.
- (b) As part of the schedule of fees described in Subsection (3)(a), the department shall establish an electronic payment fee.
- (c) The department:
 - (i) may collect an electronic payment fee from each person who applies for or renews a license or registration issued by the department or a division of the department; and
 - (ii) shall deposit into the Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17 each electronic payment fee the department collects.
- (d) The electronic payment fee described in this Subsection (5) is not subject to Subsection 63J-1-105(3) or (4).
- (e)
 - (i) If the department imposes an electronic payment fee, the department shall collect the electronic payment fee from each person described in Subsection (5)(c)(i) regardless of whether the person makes an electronic payment.
 - (ii) The department is not required to separately identify an electronic payment charged to a person described in Subsection (5)(c)(i).

Amended by Chapter 26, 2023 General Session

13-1-3 Executive director.

- (1) The department shall be under the supervision, direction, and control of the executive director of commerce. The executive director shall be appointed by the governor with the advice and consent of the Senate. The executive director shall hold office at the pleasure of the governor. The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
- (2) The executive director shall employ personnel necessary to carry out the duties and responsibilities of the department.

Amended by Chapter 352, 2020 General Session

13-1-4 Centralization of duties.

The department shall centralize the duties and responsibilities of its divisions and agencies in order to:

- (1) reduce and avoid duplication;
- (2) provide efficient planning and management services; and
- (3) maximize utilization of resources.

Enacted by Chapter 322, 1983 General Session

13-1-5 Executive director's authority over division directors.

The executive director has policymaking and management jurisdiction over directors of the divisions and agencies within the department. He shall appoint the division directors, subject to approval by the governor, unless otherwise provided by law and shall determine their compensation.

Enacted by Chapter 322, 1983 General Session

13-1-6 Rules and regulations.

- (1) The executive director shall prescribe rules and procedures for the management and operation of the department, the conduct of its employees, and the custody, use, and preservation of its records, papers, books, documents, and property.
- (2) The department and its divisions, in contemplation, formulation, and passage of rules pursuant to Subsection (1), shall acknowledge and consider the facilitation of commerce in all its forms, including reliable electronic commerce, for the benefit of both consumers and businesses.

Amended by Chapter 86, 2000 General Session

13-1-7 Budgets.

The department shall prepare and submit to the governor a proposed budget for each division or agency within the department to be included in the budget submitted by the governor to the Legislature for the fiscal year following the convening of the Legislature in an annual general session.

Amended by Chapter 21, 1985 General Session

13-1-8 Annual report.

The department shall prepare and submit to the governor and the Legislature by October 1 of each year an annual report of the operation, activities and goals of the department, its divisions, and agencies for the preceding fiscal year.

Enacted by Chapter 322, 1983 General Session

13-1-8.5 Procedures -- Adjudicative proceedings.

- (1) The Department of Commerce and its divisions shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.
- (2) The department may contract with other state agencies or departments to conduct hearings in its name or in the name of its divisions or agencies.

Amended by Chapter 382, 2008 General Session

13-1-11 Employment of administrative law judges.

The department may employ administrative law judges to conduct hearings for the department, its divisions, and agencies, and to advise the executive director, division directors, and agency boards on hearing and rulemaking procedures.

Enacted by Chapter 322, 1983 General Session

13-1-15 Exemptions from licensure.

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this title, subject to the stated circumstances and limitations, without being licensed under this title:

- (1) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

- (2) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and
- (3) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:
 - (a) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and
 - (b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Enacted by Chapter 462, 2018 General Session

13-1-17 Commerce Electronic Payment Fee Restricted Account.

- (1) As used in this section:
 - (a) "Account" means the Commerce Electronic Payment Fee Restricted Account created in this section.
 - (b) "Costs of electronic payments" means the same as that term is defined in Section 13-1-2.
 - (c) "Department" means the Department of Commerce.
 - (d) "Electronic payment" means the same as that term is defined in Section 13-1-2.
 - (e) "Electronic payment fee" means the same as that term is defined in Section 13-1-2.
- (2) There is created in the General Fund a restricted account known as the "Commerce Electronic Payment Fee Restricted Account."
- (3) The account consists of money that the department collects as an electronic payment fee in accordance with Section 13-1-2.
- (4) Upon appropriation, the department may use money in the account to cover the costs of electronic payments.
- (5)
 - (a) The account balance may not exceed \$1,000,000 at the end of each fiscal year.
 - (b) At the end of each fiscal year, the Division of Finance shall transfer into the General Fund any funds in the account that exceed an account balance of \$1,000,000.

Enacted by Chapter 26, 2023 General Session

Amended by Chapter 534, 2023 General Session, (Coordination Clause)

13-1-18 License by endorsement.

- (1) As used in this section:
 - (a) "License" means, except as provided in Subsection (1)(b), an authorization that permits the holder to engage in the practice of a profession regulated under this title.
 - (b) "License" does not include an authorization that permits the holder to engage in the practice of a profession regulated by the Division of Real Estate under Title 61, Securities Division - Real Estate Division, or the Division of Professional Licensing under Title 58, Occupations and Professions.
- (2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:
 - (a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

- (b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and
 - (c) the applicant's license is in good standing in the other state, district, or territory.
- (3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:
- (a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
 - (i)
 - (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and
 - (B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or
 - (ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or
 - (b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
 - (i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and
 - (ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.
- (4) The department may refuse to issue a license to an applicant under this section if:
- (a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or
 - (b) the applicant has a previous or pending disciplinary action related to the applicant's other license.
- (5) Before the department issues a license to an applicant under this section, the applicant shall:
- (a) pay a fee determined by the department under Section 63J-1-504; and
 - (b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.
- (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.
- (7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Enacted by Chapter 222, 2023 General Session