

LICENSING AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Joel Ferry

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 7 absent

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;
- ▶ provides a sunset date for provisions of this bill, subject to review; and



28 ▶ repeals the Occupational and Professional Licensure Review Committee Act.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **63I-1-213**, as last amended by Laws of Utah 2021, Chapter 26

36 ENACTS:

37 **13-1b-101**, Utah Code Annotated 1953

38 **13-1b-102**, Utah Code Annotated 1953

39 **13-1b-103**, Utah Code Annotated 1953

40 **13-1b-201**, Utah Code Annotated 1953

41 **13-1b-202**, Utah Code Annotated 1953

42 **13-1b-203**, Utah Code Annotated 1953

43 **13-1b-301**, Utah Code Annotated 1953

44 **13-1b-302**, Utah Code Annotated 1953

45 **13-1b-303**, Utah Code Annotated 1953

46 **13-1b-304**, Utah Code Annotated 1953

47 REPEALS:

48 **36-23-101**, as enacted by Laws of Utah 1999, Chapter 152

49 **36-23-101.5**, as last amended by Laws of Utah 2019, Chapter 276

50 **36-23-102**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

51 **36-23-103**, as last amended by Laws of Utah 2013, Chapter 323

52 **36-23-104**, as last amended by Laws of Utah 2014, Chapter 387

53 **36-23-105**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

54 **36-23-106**, as last amended by Laws of Utah 2018, Chapter 281 and last amended by
55 Coordination Clause, Laws of Utah 2018, Chapter 307

56 **36-23-107**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

57 **36-23-108**, as enacted by Laws of Utah 1999, Chapter 152

58 **36-23-109**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

59 **58-1-110**, as enacted by Laws of Utah 2013, Chapter 323



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

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

63 **CHAPTER 1b. OFFICE OF OCCUPATIONAL AND PROFESSIONAL**
64 **LICENSURE REVIEW**

65 **Part 1. General Provisions**

66 **13-1b-101. Title.**

67 This chapter is known as the "Office of Occupational and Professional Licensure
68 Review."

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

70 **13-1b-102. Definitions.**

71 As used in this chapter:

- 72 (1) "Department" means the Department of Commerce.
- 73 (2) "Director" means the director of the office.
- 74 (3) "Executive director" means the executive director of the Department of Commerce.
- 75 (4) "Government requestor" means:
 - 76 (a) the governor;
 - 77 (b) an executive branch officer other than the governor;
 - 78 (c) an executive branch agency;
 - 79 (d) a legislator; or
 - 80 (e) a legislative committee.
- 81 (5) "Health, safety, or financial welfare of the public" includes protecting against
82 physical injury, property damage, or financial harm of the public.
- 83 (6) "License" or "licensing" means a state-granted authorization for a person to engage
84 in a specified occupation:
 - 85 (a) based on the person meeting personal qualifications established under state law;
86 and
 - 87 (b) where state law requires the authorization before the person may lawfully engage in
88 the occupation for compensation.
- 89 (7) "Newly regulate" means to create by statute or administrative rule a new license,

90 certification, registration, or exemption classification regarding an occupation.

91 (8) "Occupation" means a course of conduct, pursuit, or profession that includes the
92 sale of goods or services that are not illegal to sell, irrespective of whether the individual
93 selling the goods or services is subject to an occupational regulation.

94 (9) "Office" means the Office of Occupational and Professional Licensure Review
95 created in this chapter.

96 (10) "Periodic review" means a review described in Subsection [13-1b-203\(2\)](#).

97 (11) (a) "Personal qualifications" means criteria established in state law related to an
98 individual's background.

99 (b) "Personal qualifications" includes:

100 (i) completion of an approved education program;

101 (ii) satisfactory performance on an examination;

102 (iii) work experience; and

103 (iv) completion of continuing education.

104 (12) "Regulated occupation" means an occupation that:

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

106 (b) provides for state certification or state registration.

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

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

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

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

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

121 (b) where state law does not require the person to meet any personal qualifications; and
 122 (c) where state law prohibits a nonregistered person from using the term "state
 123 registered" as part of a designated title.

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

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

127 **13-1b-103. Applicability.**

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

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

131 **Part 2. Organization**

132 **13-1b-201. Creation of office -- Director appointed -- Personnel.**

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

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

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

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

140 **13-1b-202. Powers of the director and the office.**

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

144 (2) The office may:

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

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

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

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

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

155 **13-1b-203. Duties.**

156 The office shall:

157 (1) for each application submitted in accordance with Section [13-1b-301](#), conduct a
158 sunrise review in accordance with Section [13-1b-302](#) before November 1:

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

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

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

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

166 (4) report to the Business and Labor Interim Committee in accordance with Section
167 [13-1b-304](#).

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

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

170 **13-1b-301. Application for sunrise review -- Fees.**

171 (1) If a government requestor or a representative of an occupation that is not a
172 regulated occupation proposes that the state make the occupation a regulated occupation, the
173 government requestor or representative shall, before the introduction of any proposed
174 legislation, submit to the office an application for sunrise review in a form the office
175 prescribes.

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

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

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

182 (3) If a representative of an occupation submits an application in accordance with this

183 section, the application shall include a nonrefundable fee of \$500.

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

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

187 **13-1b-302. Review criteria.**

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

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

192 (2) for any harm to the health, safety, or financial welfare of the public, the harm's:

193 (a) severity;

194 (b) probability; and

195 (c) permanence;

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

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

199 (a) affects the supply of qualified practitioners;

200 (b) creates barriers to:

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

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

203 (c) imposes new costs on existing practitioners;

204 (d) affects:

205 (i) license reciprocity with other jurisdictions; or

206 (ii) mobility of practitioners; or

207 (e) if the occupation involves a health care provider, impacts the health care provider's
208 ability to obtain payment of benefits for the health care provider's treatment of an illness,

209 injury, or health care condition under an insurance contract subject to Section [31A-22-618](#);

210 (5) if the review involves licensing, the potential alternative pathways for a person to
211 obtain a license;

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

213 (7) whether the proposed or existing administering agency has sufficient expertise and

214 resources;
215 (8) the regulation of the occupation in other jurisdictions;
216 (9) the scope of the proposed or existing regulation, including:
217 (a) whether the occupation is clearly distinguishable from an already regulated
218 occupation; and
219 (b) potential for regulating only certain occupational activities;
220 (10) the potentially less burdensome alternatives to the proposed or existing regulation
221 and the effect of implementing an alternative method of regulation on:
222 (a) the health, safety, or financial welfare of the public;
223 (b) the occupation; and
224 (c) practitioners of the occupation; and
225 (11) any other criteria the office adopts, including criteria suggested in a stakeholder
226 survey.

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

228 **13-1b-303. Legislative prioritization of reviews.**

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

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

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

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

238 **13-1b-304. Reporting.**

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

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

- 243 (a) a summary of each periodic review, each sunrise review, and each response to a
244 legislator inquiry; and

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

247 Section 11. Section **63I-1-213** is amended to read:

248 **63I-1-213. Repeal dates, Title 13.**

249 (1) Title 13, Chapter 1b, Office of Occupational and Professional Licensure Review, is
250 repealed July 1, 2034.

251 [~~1~~] (2) Section **13-32a-112**, which creates the Pawnshop and Secondhand
252 Merchandise Advisory Board, is repealed July 1, 2027.

253 [~~2~~] (3) Section **13-35-103**, which creates the Powersport Motor Vehicle Franchise
254 Advisory Board, is repealed July 1, 2022.

255 [~~3~~] (4) Section **13-43-202**, which creates the Land Use and Eminent Domain
256 Advisory Board, is repealed July 1, 2026.

257 Section 12. **Repealer.**

258 This bill repeals:

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

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

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

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

263 Section **36-23-104**, **Committee meetings -- Compensation -- Quorum -- Legislative**
264 **rules.**

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

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

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

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

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

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