

Senator Curtis S. Bramble proposes the following substitute bill:

LICENSING AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill addresses proposed and existing regulated occupations.

Highlighted Provisions:

This bill:

- ▶ creates the Office of 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
- ▶ repeals the Occupational and Professional Licensure Review Committee Act.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **63I-1-213**, as last amended by Laws of Utah 2021, Chapter 26

33 ENACTS:

34 **13-1b-101**, Utah Code Annotated 1953

35 **13-1b-102**, Utah Code Annotated 1953

36 **13-1b-201**, Utah Code Annotated 1953

37 **13-1b-202**, Utah Code Annotated 1953

38 **13-1b-203**, Utah Code Annotated 1953

39 **13-1b-301**, Utah Code Annotated 1953

40 **13-1b-302**, Utah Code Annotated 1953

41 **13-1b-303**, Utah Code Annotated 1953

42 **13-1b-304**, Utah Code Annotated 1953

43 REPEALS:

44 **36-23-101**, as enacted by Laws of Utah 1999, Chapter 152

45 **36-23-101.5**, as last amended by Laws of Utah 2019, Chapter 276

46 **36-23-102**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

47 **36-23-103**, as last amended by Laws of Utah 2013, Chapter 323

48 **36-23-104**, as last amended by Laws of Utah 2014, Chapter 387

49 **36-23-105**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

50 **36-23-106**, as last amended by Laws of Utah 2018, Chapter 281 and last amended by

51 Coordination Clause, Laws of Utah 2018, Chapter 307

52 **36-23-107**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

53 **36-23-108**, as enacted by Laws of Utah 1999, Chapter 152

54 **36-23-109**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

55 **58-1-110**, as enacted by Laws of Utah 2013, Chapter 323

56

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

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

59 **CHAPTER 1b. OFFICE OF PROFESSIONAL**
60 **LICENSURE REVIEW**

61 **Part 1. General Provisions**

62 **13-1b-101. 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) "Government requestor" means:

68 (a) the governor;

69 (b) an executive branch officer other than the governor;

70 (c) an executive branch agency;

71 (d) a legislator; or

72 (e) a legislative committee.

73 (5) "Health, safety, or financial welfare of the public" includes protecting against
74 physical injury, property damage, or financial harm of the public.

75 (6) "License" or "licensing" means a state-granted authorization for a person to engage
76 in a specified occupation:

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

78 and

79 (b) where state law requires the authorization before the person may lawfully engage in
80 the occupation for compensation.

81 (7) "Newly regulate" means to create by statute or administrative rule a new license,
82 certification, registration, or exemption classification regarding an occupation.

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

86 (9) "Office" means the Office of Professional Licensure Review created in this chapter.

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

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

90 (b) "Personal qualifications" includes:

91 (i) completion of an approved education program;

92 (ii) satisfactory performance on an examination;

93 (iii) work experience; and

94 (iv) completion of continuing education.

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

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

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

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

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

102 and

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

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

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

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

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

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

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

118 **13-1b-102. Applicability.**

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

121 Section 3. Section **13-1b-201** is enacted to read:

122 **Part 2. Organization**

123 **13-1b-201. Creation of office -- Director appointed -- Personnel.**

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

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

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

130 Section 4. Section **13-1b-202** is enacted to read:

131 **13-1b-202. Powers of the director and the office.**

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

135 (2) The office may:

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

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

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

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

145 Section 5. Section **13-1b-203** is enacted to read:

146 **13-1b-203. Duties.**

147 The office shall:

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

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

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

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

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

157 (4) report to the Business and Labor Interim Committee in accordance with Section
158 13-1b-304.

159 Section 6. Section 13-1b-301 is enacted to read:

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

161 **13-1b-301. Application for sunrise review -- Fees.**

162 (1) If a government requestor or a representative of an occupation that is not a
163 regulated occupation proposes that the state make the occupation a regulated occupation, the
164 government requestor or representative shall, before the introduction of any proposed
165 legislation, submit to the office an application for sunrise review in a form the office
166 prescribes.

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

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

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

173 (3) If a representative of an occupation submits an application in accordance with this
174 section, the application shall include a nonrefundable fee of \$500.

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

177 Section 7. Section 13-1b-302 is enacted to read:

178 **13-1b-302. Review criteria.**

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

- 181 (1) whether the regulation of the occupation is necessary to address a present,
182 recognizable, and significant harm to the health, safety, or financial welfare of the public;
- 183 (2) for any harm to the health, safety, or financial welfare of the public, the harm's:
184 (a) severity;
185 (b) probability; and
186 (c) permanence;
- 187 (3) the extent to which the proposed or existing regulation of the occupation protects
188 against or diminishes the harm described in Subsection (1);
- 189 (4) whether the proposed or existing regulation of the occupation:
190 (a) affects the supply of qualified practitioners;
191 (b) creates barriers to:
192 (i) service that are not in the public financial welfare or interest; or
193 (ii) entry into the occupation or related occupations;
194 (c) imposes new costs on existing practitioners;
195 (d) affects:
196 (i) license reciprocity with other jurisdictions; or
197 (ii) mobility of practitioners; or
198 (e) if the occupation involves a health care provider, impacts the health care provider's
199 ability to obtain payment of benefits for the health care provider's treatment of an illness,
200 injury, or health care condition under an insurance contract subject to Section [31A-22-618](#);
- 201 (5) if the review involves licensing, the potential alternative pathways for a person to
202 obtain a license;
- 203 (6) the costs to the state of regulating the occupation;
- 204 (7) whether the proposed or existing administering agency has sufficient expertise and
205 resources;
- 206 (8) the regulation of the occupation in other jurisdictions;
207 (9) the scope of the proposed or existing regulation, including:
208 (a) whether the occupation is clearly distinguishable from an already regulated
209 occupation; and
210 (b) potential for regulating only certain occupational activities;
211 (10) the potentially less burdensome alternatives to the proposed or existing regulation

212 and the effect of implementing an alternative method of regulation on:

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

214 (b) the occupation; and

215 (c) practitioners of the occupation; and

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

218 Section 8. Section **13-1b-303** is enacted to read:

219 **13-1b-303. Legislative prioritization of reviews.**

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

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

225 (a) approve the list, with or without modification; and

226 (b) submit a copy of the approved list to the Legislative Management Committee for
227 approval, with or without modification.

228 Section 9. Section **13-1b-304** is enacted to read:

229 **13-1b-304. Reporting.**

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

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

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

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

238 Section 10. Section **63I-1-213** is amended to read:

239 **63I-1-213. Repeal dates, Title 13.**

240 (1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1,
241 2034.

242 [(+)] (2) Section [13-32a-112](#), which creates the Pawnshop and Secondhand

243 Merchandise Advisory Board, is repealed July 1, 2027.

244 [~~(2)~~] (3) Section 13-35-103, which creates the Powersport Motor Vehicle Franchise
245 Advisory Board, is repealed July 1, 2022.

246 [~~(3)~~] (4) Section 13-43-202, which creates the Land Use and Eminent Domain
247 Advisory Board, is repealed July 1, 2026.

248 Section 11. **Repealer.**

249 This bill repeals:

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

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

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

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

254 Section 36-23-104, **Committee meetings -- Compensation -- Quorum -- Legislative**

255 **rules.**

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

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

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

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

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

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