
DIGEST

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HB 748 Original

2018 Regular Session

Emerson

Abstract: Creates the Occupational Licensing Review Act.

Proposed law provides for the following legislative policies:

- (1) The rights of an individual to pursue a lawful occupation is a fundamental right.
- (2) When the state finds it necessary to displace competition, it shall use the least restrictive regulation to protect consumers from present, significant, and empirically substantiated harms threatening public health and safety.

Proposed law defines "certification", "lawful occupation", "least restrictive regulation", "occupational license", "occupational regulation", "office", "personal qualifications", "registration", and "specialty occupational license for medical reimbursement".

Proposed law creates the office of supervision of occupational boards ("office") with the office of the governor.

Proposed law provides for responsibilities and duties of the office.

Proposed law requires the office, beginning July 1, 2018, annually review approximately 20% of the state's current occupational regulations using certain criteria.

Proposed law requires the office, beginning on January 1, 2019, annually report the findings of its reviews to the speaker of the House of Representatives, the president of the Senate, the governor, and the attorney general.

Proposed law requires that in the office's report, it shall recommend the legislature enact legislation that may do any of the following:

- (1) Repeal occupational regulations.
- (2) Convert the occupational regulations to less restrictive regulations.
- (3) Instruct the relevant licensing board or agency to promulgate revised regulations reflecting the legislature's decision to use a less restrictive regulation.

Proposed law provides that the right of an individual to pursue a lawful occupation is a fundamental right that includes both of the following:

- (1) The right of an individual with a criminal record to petition the state to obtain a certification, occupational license, specialty occupational license for medical reimbursement, or other state recognition with respect to the individual's personal qualifications.
- (2) The state not using a criminal record as an automatic or mandatory permanent bar to an individual's receiving state recognition.

Proposed law provides that an individual with a criminal record may petition a licensing entity at any time, including before obtaining any required education or training, for a determination of whether the individual's criminal record will disqualify the individual from obtaining state recognition.

Proposed law requires the individual to provide his criminal record or an authorization for the licensing entity to obtain his criminal record.

Proposed law provides that an individual may include additional information about the his current circumstances, including the time since the offense, completion of the criminal sentence, other evidence of rehabilitation, testimonials, employment history, and employment aspirations.

Proposed law authorizes the board to determine whether the individual's criminal record disqualifies him from obtaining state recognition.

Proposed law requires the board to issue its determination to the individual within 90 days from the date the board receives the petition.

Proposed law provides that if the board determines the state's interest is superior to the individual's right, the board may advise the individual of actions he may take to remedy the disqualification and provides for the resubmission of a revised petition.

Proposed law provides for the appeal process of the board's determination and allows the individual to submit new petition to the board at any time within two years from the date of the board's final determination.

Proposed law provides that the board may rescind its determination at any time if the individual is convicted of certain offenses.

Proposed law authorizes the board to charge and collect a fee to recoup its costs for each petition, and such fee shall not exceed \$100.

Proposed law provides that the La. Workforce Commission ("commission") shall designate internal personnel to establish an annual reporting requirement for the commission's collection of data with respect to all of the following:

- (1) The number of applicants petitioning each board.
- (2) The number of petitions approved and denied by each board.
- (3) The type of offenses for which each board approved or denied the petitions.
- (4) Other data as determined by the commission.

Proposed law provides that the commission shall compile and annually provide a report of the data collected to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs, and shall make the report available on the official website of the commission on or before February first of each calendar year.

Proposed law provides for interpretation of statutes and rules as follows:

- (1) Occupational regulations shall be construed and applied to increase economic opportunities, promote competition, and encourage innovation.
- (2) Any ambiguities in occupational regulations shall be construed in favor of working licensees, aspiring licensees, and persons aspiring work related to regulated occupations.
- (3) The scope of practice in occupational regulations is to be construed narrowly so as to avoid its application to individuals who would be burdened by regulatory requirements that are only partially related to the goods and services they provide.

Effective July 1, 2018.

(Adds R.S. 37:41-46)