

The House Committee on Regulated Industries offers the following substitute to HB 575:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to professions and businesses, so as to provide that a licensee may
3 request review of an occupational regulation; to provide for definitions; to provide for the
4 procedure by which a licensee may request a review; to provide for duties of an occupational
5 licensing board that receives a request for a review; to establish criteria by which to conduct
6 the review; to provide for a private right of action; to provide for the standard of review; to
7 provide for remedies; to provide for related matters; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
12 provisions relative to professions and businesses, is amended by revising Code
13 Section 43-1-8, which is marked as reserved, as follows:

14 "43-1-8.

15 (a) As used in this Code section, the term:

16 (1) 'Least restrictive regulation' means, from least to most restrictive, the following:

- 17 (A) Market competition;
18 (B) Third-party or consumer created ratings and reviews;
19 (C) Specific private civil cause of action to remedy consumer harm as provided in the
20 Fair Business Practices Act of 1975 and any amendments thereto, pursuant to Code
21 Section 10-1-390 et seq.;
22 (D) Regulation of the process of providing the specific goods or services to consumers;
23 (E) Inspection;
24 (F) Bonding or insurance;
25 (G) Registration; and
26 (H) Occupational license.
- 27 (2) 'Legitimate objective' means a fiduciary, public health, safety, welfare, financial, tax,
28 or accounting purpose.
- 29 (3) 'Licensee' means an individual who is licensed under any chapter of this title.
- 30 (4) 'Occupational licensing board' means any state executive branch licensing board,
31 commission, department, or other agency board established pursuant to this title that:
- 32 (A) Regulates the entry of persons into, or regulates the conduct of persons within, a
33 particular profession or occupation;
34 (B) Is authorized to issue and revoke occupational licenses or registrations; and
35 (C) Is controlled by an individual or entity that is:
36 (i) Licensed by an occupational licensing board; or
37 (ii) A provider of any service subject to the regulatory authority of an occupational
38 licensing board.
- 39 (5) 'Occupational regulation' or 'regulation' means any rule or regulation adopted,
40 established, enforced, or maintained by an occupational licensing board.
- 41 (b) Notwithstanding any law to the contrary, a licensee may request review of an
42 occupational regulation by submitting a petition to the occupational licensing board that

43 issued the regulation. An occupational licensing board shall review the regulation provided
44 for in the petition to determine if the regulation:

45 (1) Is currently applicable and necessary;

46 (2) Fulfills a legitimate objective; and

47 (3) Is the least restrictive regulation available for the safety and well-being of the citizens
48 of this state.

49 (c) Within 45 days after submission of a petition, the agency shall either deny the petition
50 and state its reasons for the denial in writing or shall initiate rule-making proceedings in
51 accordance with Code Section 50-13-4.

52 (d) With respect to the challenge of an occupational regulation, the plaintiff shall prevail
53 if the court or administrative law judge finds by a preponderance of the evidence that the
54 challenged occupational regulation on its face or in its effect burdens entry into a
55 profession, trade, or occupation, and that an agency has failed to prove by a preponderance
56 of the evidence that the challenged occupational regulation is currently applicable and
57 necessary, fulfills a legitimate objective, and is the least restrictive regulation available for
58 the safety and well-being of the citizens of this state. Upon a finding for the plaintiff, the
59 court shall enjoin further enforcement of the challenged occupational regulation and shall
60 award reasonable attorneys' fees and costs to the plaintiff. Reserved."

61 **SECTION 2.**

62 All laws and parts of laws in conflict with this Act are repealed.