
DIGEST

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HB 398 Original

2021 Regular Session

Butler

Abstract: Creates the Occupational Licensing Board Review Program in the office of the attorney general.

Proposed law provides that occupational regulations shall be applied to increase economic opportunities, promote competition, and encourage innovation. Provides that occupational licensing boards shall use the least restrictive regulation to protect the public from present, significant, and substantiated harms that threaten public health, safety, or welfare.

Proposed law provides that the attorney general shall review both proposed occupational regulations and relevant disciplinary actions of a state occupational licensing board that elects to participate in the Occupational Licensing Board Review Program. Provides for the terms of agreement between the occupational licensing board and the attorney general.

Proposed law provides that the attorney general shall receive as compensation an amount not to exceed \$10 per licensee of the participating board.

Proposed law provides that participation in the Occupational Licensing Board Review Program is voluntary and optional.

Proposed law provides that the occupational licensing board shall submit any occupational regulation it seeks to promulgate, together with a report of any public comments received regarding the proposed regulation, to the Department of Justice before submitting notice of final regulation to the proper legislative oversight committees.

Proposed law provides that the Department of Justice shall review each submitted occupational regulation to ensure compliance with clearly articulated state policy and may also consider any guidelines adopted by the Federal Trade Commission.

Proposed law provides that following the review, the Department of Justice shall do any of the following:

- (1) Approve the proposed occupational regulation and authorize the occupational licensing board to proceed with promulgation.
- (2) Disapprove the proposed occupational regulation and require the occupational licensing board to revise and resubmit the occupational regulation for approval.

Proposed law provides that the occupational licensing board shall submit the proposed discipline and supporting documentation to the Department of Justice before taking any disciplinary action that impacts market competition.

Proposed law provides that the Department of Justice shall review the proposed disciplinary action to ensure compliance with clearly articulated state policy and may also consider any guidelines adopted by the Federal Trade Commission.

Proposed law provides that following the review, the Department of Justice shall do any of the following:

- (1) Determine that the proposed disciplinary action does not implicate any market competition interests.
- (2) Approve the proposed disciplinary action as a proper exercise of state regulatory action in accordance with clearly articulated state policy, notwithstanding possible impact on market competition, and authorize the occupational licensing board to proceed with imposing it.
- (3) Disapprove of the proposed disciplinary action and decline to authorize its imposition.

Proposed law establishes a special fund in the state treasury known as the Department of Justice Occupational Licensing Board Review Program Fund. Provides that the fund shall be comprised of monies received by the attorney general from participating occupational licensing boards as compensation for regulatory review activities.

Proposed law provides that monies in the fund shall be subject to annual appropriation to the Department of Justice solely for the support of occupational licensing board regulatory review activities and general operating expenses.

Proposed law provides that appropriated monies shall be used to supplement the Department of Justice's budget and shall not be used to displace, replace, or supplant appropriations from the state general fund for operations of the Department of Justice below the level of state general fund appropriation for the foregoing year.

Proposed law provides that all unencumbered and unexpended monies in the fund at the end of the fiscal year shall remain in the fund. Provides that the treasurer shall invest monies into the fund in the same manner as those in the state general fund, and any interest earned on such investment shall be deposited in and credited to the fund.

Proposed law provides for definitions.

Proposed law authorizes the Department of Justice to promulgate rules and procedures as necessary to implement the Occupational Licensing Board Review Program.

Proposed law provides that an occupational licensing board may require, as a condition of licensure

or renewal of licensure, that an individual obtain or maintain certification from a private organization that credentials individuals in the relevant occupation.

(Adds R.S. 49:260)