

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;
- ▶ repeals the Occupational and Professional Licensure Review Committee Act; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 **AMENDS:**

33 **58-1-301**, as last amended by Laws of Utah 2019, Chapter 133

34 **58-55-201**, as last amended by Laws of Utah 2020, Chapters 154 and 339

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-201**, Utah Code Annotated 1953

40 **13-1b-202**, Utah Code Annotated 1953

41 **13-1b-203**, Utah Code Annotated 1953

42 **13-1b-301**, Utah Code Annotated 1953

43 **13-1b-302**, Utah Code Annotated 1953

44 **13-1b-303**, Utah Code Annotated 1953

45 **13-1b-304**, Utah Code Annotated 1953

46 **REPEALS:**

47 **36-23-101**, as enacted by Laws of Utah 1999, Chapter 152

48 **36-23-101.5**, as last amended by Laws of Utah 2019, Chapter 276

49 **36-23-102**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

50 **36-23-103**, as last amended by Laws of Utah 2013, Chapter 323

51 **36-23-104**, as last amended by Laws of Utah 2014, Chapter 387

52 **36-23-105**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

53 **36-23-106**, as last amended by Laws of Utah 2018, Chapter 281 and last amended by

54 Coordination Clause, Laws of Utah 2018, Chapter 307

55 **36-23-107**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

56 **36-23-108**, as enacted by Laws of Utah 1999, Chapter 152
 57 **36-23-109**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
 58 **58-1-110**, as enacted by Laws of Utah 2013, Chapter 323

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

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

62 **CHAPTER 1b. OFFICE OF PROFESSIONAL**
 63 **LICENSURE REVIEW**

64 **Part 1. General Provisions**

65 **13-1b-101. Definitions.**

66 As used in this chapter:

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

83 the occupation for compensation.

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

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

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

90 (10) "Periodic review" means a review described in Subsection 13-1b-203(2).

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

93 (b) "Personal qualifications" includes:

94 (i) completion of an approved education program;

95 (ii) satisfactory performance on an examination;

96 (iii) work experience; and

97 (iv) completion of continuing education.

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

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

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

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

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

105 and

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

109 (14) "State registration" means a state-granted authorization given to a person to use

110 the term "state registered" as part of a designated title related to engaging in a specified
111 occupation:

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

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

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

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

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

121 **13-1b-102. Applicability.**

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

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

125 **Part 2. Organization**

126 **13-1b-201. Creation of office -- Director appointed -- Personnel.**

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

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

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

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

134 **13-1b-202. Powers of the director and the office.**

135 (1) The director may employ personnel necessary to carry out the duties and
136 responsibilities of the office at salaries determined by the executive director in accordance with

137 standards established by the Division of Human Resource Management.

138 (2) The office may:

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

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

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

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

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

149 **13-1b-203. Duties.**

150 The office shall:

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

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

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

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

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

160 (4) report to the Business and Labor Interim Committee in accordance with Section
161 [13-1b-304](#).

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

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

164 **13-1b-301. Application for sunrise review -- Fees.**

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

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

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

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

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

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

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

181 **13-1b-302. Review criteria.**

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

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

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

187 (a) severity;

188 (b) probability; and

189 (c) permanence;

190 (3) the extent to which the proposed or existing regulation of the occupation protects

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

218 (c) practitioners of the occupation; and
219 (11) any other criteria the office adopts, including criteria suggested in a stakeholder
220 survey.

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

222 **13-1b-303. Legislative prioritization of reviews.**

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

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

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

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

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

232 **13-1b-304. Reporting.**

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

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

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

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

241 Section 10. Section **58-1-301** is amended to read:

242 **58-1-301. License application -- Licensing procedure.**

243 (1) (a) Each license applicant shall apply to the division in writing upon forms
244 available from the division.

- 245 (b) Each completed application shall:
- 246 (i) contain documentation of the particular qualifications required of the applicant;
- 247 (ii) include the applicant's social security number;
- 248 (iii) be verified by the applicant; and
- 249 (iv) be accompanied by the appropriate fees.

250 (c) An applicant's social security number is a private record under Subsection

251 [63G-2-302\(1\)\(i\)](#).

252 (2) (a) The division shall issue a license to an applicant who submits a complete

253 application if the division determines that the applicant meets the qualifications of licensure.

254 (b) The division shall provide a written notice of additional proceedings to an applicant

255 who submits a complete application, but who has been, is, or will be placed under investigation

256 by the division for conduct directly bearing upon the applicant's qualifications for licensure, if

257 the outcome of additional proceedings is required to determine the division's response to the

258 application.

259 (c) The division shall provide a written notice of denial of licensure to an applicant

260 who submits a complete application if the division determines that the applicant does not meet

261 the qualifications of licensure.

262 (d) The division shall provide a written notice of incomplete application and

263 conditional denial of licensure to an applicant who submits an incomplete application, which

264 notice shall advise the applicant that the application is incomplete and that the application is

265 denied, unless the applicant corrects the deficiencies within the time period specified in the

266 notice and otherwise meets all qualifications for licensure.

267 (3) The division may only issue a license to an applicant under this title if the applicant

268 meets the requirements for that license as established under this title and by division rule made

269 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

270 (4) If an applicant meets all requirements for a specific license, the division shall issue

271 the license to the applicant.

272 (5) (a) As used in this Subsection (5):

273 (i) (A) "Competency-based licensing requirement" means a practical assessment of
274 knowledge and skills that clearly demonstrate a person is prepared to engage in an occupation
275 or profession regulated by this title, and which the director determines is at least as effective as
276 a time-based licensing requirement at demonstrating proficiency and protecting the health and
277 safety of the public.

278 (B) "Competency-based licensing requirement" may include any combination of
279 training, experience, testing, or observation.

280 (ii) (A) "Time-based licensing requirement" means a specific number of hours, weeks,
281 months, or years of education, training, supervised training, or other experience that an
282 applicant for licensure under this title is required to complete before receiving a license under
283 this title.

284 (B) "Time-based licensing requirement" does not include an associate degree, a
285 bachelor's degree, or a graduate degree from an accredited institution of higher education.

286 (b) Subject to Subsection (5)(c), for an occupation or profession regulated by this title
287 that has a time-based licensing requirement, the director, after consultation with the appropriate
288 board, may by division rule made in accordance with Title 63G, Chapter 3, Utah
289 Administrative Rulemaking Act, allow an applicant to complete a competency-based licensing
290 requirement as an alternative to completing the time-based licensing requirement.

291 (c) If a time-based licensing requirement involves a program that must be approved or
292 accredited by a specific entity or board, the director may only allow an applicant to complete a
293 competency-based licensing requirement as an alternative to completing the time-based
294 licensing requirement under Subsection (5)(b) if the competency-based requirement is
295 approved or accredited by the specific entity or board as a replacement or alternative to the
296 time-based licensing requirement.

297 ~~[(d) By October 1 of each year, the director shall provide a written report to the~~
298 ~~Occupational and Professional Licensure Review Committee describing any competency-based~~

299 ~~licensing requirements implemented under this Subsection (5).]~~

300 Section 11. Section **58-55-201** is amended to read:

301 **58-55-201. Boards created -- Duties.**

302 (1) There is created the Plumbers Licensing Board consisting of seven members as
303 follows:

304 (a) three members shall be licensed from among the license classifications of master or
305 journeyman plumber, of whom at least one shall represent a union organization and at least one
306 shall be selected having no union affiliation;

307 (b) three members shall be licensed plumbing contractors, of whom at least one shall
308 represent a union organization and at least one shall be selected having no union affiliation;
309 and

310 (c) one member shall be from the public at large with no history of involvement in the
311 construction trades.

312 (2) (a) There is created the Alarm System Security and Licensing Board consisting of
313 five members as follows:

- 314 (i) three individuals who are officers or owners of a licensed alarm business;
315 (ii) one individual from among nominees of the Utah Peace Officers Association; and
316 (iii) one individual representing the general public.

317 (b) The Alarm System Security and Licensing Board shall designate one of its
318 members on a permanent or rotating basis to:

319 (i) assist the division in reviewing complaints concerning the unlawful or
320 unprofessional conduct of a licensee; and

321 (ii) advise the division in its investigation of these complaints.

322 (c) A board member who has, under this Subsection (2)(c), reviewed a complaint or
323 advised in its investigation is disqualified from participating with the board when the board
324 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

325 (3) There is created the Electricians Licensing Board consisting of seven members as

326 follows:

327 (a) three members shall be licensed from among the license classifications of master or
328 journeyman electrician, of whom at least one shall represent a union organization and at least
329 one shall be selected having no union affiliation;

330 (b) three members shall be licensed electrical contractors, of whom at least one shall
331 represent a union organization and at least one shall be selected having no union affiliation;
332 and

333 (c) one member shall be from the public at large with no history of involvement in the
334 construction trades or union affiliation.

335 (4) The duties, functions, and responsibilities of each board described in Subsections
336 (1) through (3) include the following:

337 (a) recommending to the commission appropriate rules;

338 (b) recommending to the commission policy and budgetary matters;

339 (c) approving and establishing a passing score for applicant examinations;

340 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and
341 relicensure;

342 (e) assisting the commission in establishing standards of supervision for students or
343 persons in training to become qualified to obtain a license in the occupation or profession the
344 board represents; and

345 (f) acting as presiding officer in conducting hearings associated with the adjudicative
346 proceedings and in issuing recommended orders when so authorized by the commission.

347 ~~[(5) The division, in collaboration with the Plumbers Licensing Board and the~~
348 ~~Electricians Licensing Board, shall provide a preliminary report on or before October 1, 2019,~~
349 ~~and a final written report on or before June 1, 2020, to the Business and Labor Interim~~
350 ~~Committee and the Occupational and Professional Licensure Review Committee that provides~~
351 ~~recommendations for consistent educational and training standards for plumber and electrician~~
352 ~~apprentice programs in the state, including recommendations for education and training~~

353 ~~provided by all providers, including institutions of higher education and technical colleges.]~~

354 Section 12. Section **63I-1-213** is amended to read:

355 **63I-1-213. Repeal dates, Title 13.**

356 (1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1,
357 2034.

358 ~~[(1)]~~ (2) Section **13-32a-112**, which creates the Pawnshop and Secondhand
359 Merchandise Advisory Board, is repealed July 1, 2027.

360 ~~[(2)]~~ (3) Section **13-35-103**, which creates the Powersport Motor Vehicle Franchise
361 Advisory Board, is repealed July 1, 2022.

362 ~~[(3)]~~ (4) Section **13-43-202**, which creates the Land Use and Eminent Domain
363 Advisory Board, is repealed July 1, 2026.

364 Section 13. **Repealer.**

365 This bill repeals:

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

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

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

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

370 Section **36-23-104, Committee meetings -- Compensation -- Quorum -- Legislative**
371 **rules.**

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

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

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

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

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

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