
HOUSE BILL 1402

State of Washington

67th Legislature

2021 Regular Session

By Representatives Vick, Kirby, Jacobsen, and Dufault

Read first time 01/27/21. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to review standards for professional licensing
2 regulation; adding a new chapter to Title 18 RCW; and creating a new
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that, at times,
6 the emergence of new industries and substance of existing industries
7 provides cause for registration, certification, or licensure of
8 certain professions, when practices with these professions
9 demonstrate a clear and present danger to the protection of the
10 consumer's health and safety.

11 (2) However, it is also recognized that adding requirements,
12 including but not limited to educational requirements, paying fees,
13 and training hours, which an individual must fulfill before receiving
14 a license to practice in a profession, creates barriers to an
15 individual's upward mobility and freedom to pursue their profession
16 of choice.

17 (3) Furthermore the legislature acknowledges that unnecessary
18 government regulation leads to economic barriers, it is critically
19 important that as new professional licensing regulations which may
20 impact an individual's right to employment in a profession are
21 considered, that full consideration of the potential benefits and

1 harms first be weighed in an official, consistent, and equitable
2 manner.

3 (4) It is, therefore, the intent of the legislature to establish
4 a sunrise review process for any such future regulation on newly
5 licensed professions, to ensure concerns for public health and safety
6 are adequately addressed and that the rights and well-being of
7 current and future practitioners of the profession be given full
8 protection from unnecessary regulatory burden.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires
11 otherwise.

12 (1) "Department" means the department of licensing.

13 (2) "Director" means the director of licensing.

14 (3) "Professional license" means a license, certificate,
15 registration, permit, or other form of authorization required by law
16 or a state agency rule that must be obtained by an individual to
17 engage in a particular profession which is regulated by the
18 department of licensing.

19 (4) "Public interest" means protection from a present and
20 recognizable harm to public health, safety, or welfare. The term does
21 not include speculative threats, or other nondemonstrable menaces to
22 public health, safety, or welfare. For the purposes of this
23 subsection, the term "welfare" includes the financial health of the
24 public when the absence of governmental regulation unreasonably
25 increases risk and liability to broad classes of consumers.

26 NEW SECTION. **Sec. 3.** (1) No regulation shall, after January 1,
27 2022, be imposed upon a new professional license except for the
28 exclusive purpose of protecting the public interest. All bills
29 introduced to regulate and implement a professional license for the
30 first time should be regulated by the state only when:

31 (a) Unregulated practice can clearly harm or endanger the health,
32 safety, or welfare of the public, and the potential for the harm is
33 easily recognizable and not remote or dependent upon tenuous
34 argument;

35 (b) The public needs can reasonably be expected to benefit from
36 an assurance of initial and continuing professional ability; and

37 (c) The public cannot be effectively protected by other means in
38 a more cost-beneficial manner.

1 (2) After evaluating the criteria in subsection (1) of this
2 section and considering governmental and societal costs and benefits,
3 if the legislature finds that it is necessary to regulate a
4 profession by implementing a licensing requirement not previously
5 required by law, the least restrictive alternative method of
6 regulation should be implemented, consistent with the public interest
7 and this section:

8 (a) Where existing common law and statutory civil actions and
9 criminal prohibitions are not sufficient to eradicate existing harm,
10 the regulation should provide for stricter civil actions and criminal
11 prosecutions;

12 (b) Where a service is being performed for individuals involving
13 a hazard to the public health, safety, or welfare, the regulation
14 should impose inspection requirements and enable an appropriate state
15 agency to enforce violations by injunctive relief in court including,
16 but not limited to, regulation of the business activity providing the
17 service rather than the employees of the business;

18 (c) Where the threat to the public health, safety, or economic
19 well-being is relatively small as a result of the operation of the
20 profession, the regulation should implement a system of registration;

21 (d) Where the consumer may have a substantial basis for relying
22 on the services of a practitioner, the regulation should implement a
23 system of certification; or

24 (e) Where apparent that adequate regulation cannot be achieved by
25 means other than licensing, the regulation should implement a system
26 of licensing.

27 NEW SECTION. **Sec. 4.** Sections 2 and 3 of this act constitute a
28 new chapter in Title 18 RCW.

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