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**HOUSE BILL 1967**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representative Reeves

AN ACT Relating to requiring licensing and background investigations for in-home service providers; amending RCW 18.235.020; adding a new chapter to Title 18 RCW; and prescribing penalties.

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

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

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

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

(3) "In-home service provider" means any person hired or employed to enter another person's residence for the purposes of:

(a) Set up, installation, or repair of: A household appliance; furniture; heating, air-conditioning, ventilation, plumbing, or electrical systems; and cable, telephone, satellite, internet, or other telecommunications systems; or

(b) Renovating, remodeling, repairing, or rehabilitating a residence when occupied.

NEW SECTION. **Sec.**  An applicant must meet the following minimum requirements to obtain an in-home service provider license:

(1) Be at least eighteen years of age;

(2) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to his or her capacity to perform the duties of an in-home service provider and the director determines that the license should be withheld to protect the citizens of Washington state. The director must make her or his determination to withhold a license because of previous convictions notwithstanding the restoration of employment rights act, chapter 9.96A RCW;

(3) Satisfy the training requirements established by the director; and

(4) Pay the required nonrefundable fee for each application.

NEW SECTION. **Sec.**  (1) Applications for licenses required under this chapter must be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria.

(2) Applicants for licenses under this chapter must complete a records check through the Washington state patrol criminal identification system. The director may accept proof of a recent national crime information center/III criminal background report or any national or interstate criminal background report to accelerate the licensing and endorsement process. The director is authorized to periodically perform a background investigation of licensees to identify criminal convictions subsequent to the renewal of a license.

NEW SECTION. **Sec.**  (1) The director must issue an in-home service provider license card to each licensed in-home service provider.

(2) The license card may not be used as security clearance.

(3) An in-home service provider must carry the license card when performing the duties of an in-home service provider and must exhibit the card upon request.

NEW SECTION. **Sec.**  (1) The department may issue a temporary license card after an applicant has completed the required prelicense training and submitted a full and complete application for an in-home service provider license to the department. The temporary registration card is valid for a maximum period of thirty days. The temporary license card permits the applicant to perform the duties of an in-home service provider.

(2) Upon expiration of a temporary license card or upon the receipt of a permanent license card or notification from the department that a permanent license is being withheld from an applicant, the applicant must discontinue use of the temporary license card.

NEW SECTION. **Sec.**  The director must adopt rules establishing prelicense training requirements. The prelicense training must include, at a minimum, the topics of cultural competency and sexual harassment prevention and awareness.

NEW SECTION. **Sec.**  An employer must notify the director within thirty days after the termination of employment of any employee who is a licensed in-home service provider for allegations of unprofessional conduct.

NEW SECTION. **Sec.**  In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following conduct, acts, or conditions:

(1) Violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Not meeting the qualifications set forth in this chapter; and

(3) Being certified as not in compliance with a support order as provided in RCW 74.20A.320.

NEW SECTION. **Sec.**  The director or the director's designee has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules as deemed necessary to carry out this chapter;

(2) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter; and

(3) To adopt standards of professional conduct or practice.

NEW SECTION. **Sec.**  A person including, but not limited to, consumers, licensees, corporations, organizations, and state and local governmental agencies, may submit a written complaint to the department charging a license holder or applicant with unprofessional or unlawful conduct and specifying the grounds for the charge. If the director determines that the complaint merits investigation, or if the director has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional or unlawful conduct, the director must investigate to determine if there has been unprofessional or unlawful conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.

NEW SECTION. **Sec.**  (1) If the director believes a license holder or applicant may be unable to practice with reasonable skill and safety to the public by reason of any mental or physical condition, a statement of charges must be served on the license holder or applicant and notice must also be issued providing an opportunity for a hearing. The hearing must be limited to the sole issue of the capacity of the license holder or applicant to practice with reasonable skill or safety. If the director determines that the license holder or applicant is unable to practice with reasonable skill and safety for one of the reasons stated in this subsection, the director must impose such sanctions as are deemed necessary to protect the public.

(2) In investigating or adjudicating a complaint or report that a license holder or applicant may be unable to practice with reasonable skill or safety by reason of a mental or physical condition, the department may require a license holder or applicant to submit to a mental or physical examination by one or more licensed or certified health professionals designated by the director. The cost of the examinations ordered by the department must be paid by the department. In addition to any examinations ordered by the department, the licensee may submit physical or mental examination reports from licensed or certified health professionals of the license holder's or applicant's choosing and expense. Failure of the license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or withholding of the license, consequent upon which a default and final order may be entered without the taking of testimony or presentations of evidence, unless the failure was due to circumstances beyond the person's control. A determination by a court of competent jurisdiction that a license holder or applicant is mentally incompetent or mentally ill is presumptive evidence of the license holder's or applicant's inability to practice with reasonable skill and safety. An individual affected under this section must at reasonable intervals be afforded an opportunity to demonstrate that the individual can resume competent practice with reasonable skill and safety to the public.

(3) For the purpose of subsection (2) of this section, an applicant or license holder governed by this chapter, by making application, practicing, or filing a license renewal, is deemed to have given consent to submit to a mental, physical, or psychological examination if directed in writing by the department and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the director on the grounds that the testimony or reports constitute hearsay or privileged communications.

NEW SECTION. **Sec.**  (1) Upon a finding that a license holder or applicant has committed unprofessional or unlawful conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the director may issue an order providing for one or any combination of the following:

(a) Revocation of the license;

(b) Suspension of the license for a fixed or indefinite term;

(c) Restriction or limitation of the practice;

(d) Requiring the satisfactory completion of a specific program of remedial education or treatment;

(e) Monitoring of the practice by a supervisor approved by the director;

(f) Censure or reprimand;

(g) Compliance with conditions of probation for a designated period of time;

(h) Withholding a license request;

(i) Other corrective action; or

(j) Assessing administrative penalties.

(2) Any of the actions under this section may be totally or partly stayed by the director. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

NEW SECTION. **Sec.**  (1) If an order for payment of a fine is made as a result of a hearing and timely payment is not made as directed in the final order, the director may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement is in addition to any other rights the director may have as to a licensee ordered to pay a fine but does not limit a licensee's ability to seek judicial review.

(2) In an action for enforcement of an order of payment of a fine, the director's order is conclusive proof of the validity of the order of payment of a fine and the terms of payment.

NEW SECTION. **Sec.**  The director, in implementing and administering the provisions of this chapter, must act in accordance with the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec.**  The director must immediately suspend a license issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license must be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. **Sec.**  The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. **Sec.**  An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state.

**Sec.**  RCW 18.235.020 and 2017 c 281 s 37 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) In-home service providers under chapter 18.--- RCW (the new chapter created in section 19 of this act);

(xi) Limousines under chapter 46.72A RCW;

((~~(xi)~~)) (xii) Notaries public under chapter 42.45 RCW;

((~~(xii)~~)) (xiii) Private investigators under chapter 18.165 RCW;

((~~(xiii)~~)) (xiv) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

((~~(xiv)~~)) (xv) Real estate appraisers under chapter 18.140 RCW;

((~~(xv)~~)) (xvi) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

((~~(xvi)~~)) (xvii) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

((~~(xvii)~~)) (xviii) Security guards under chapter 18.170 RCW;

((~~(xviii)~~)) (xix) Sellers of travel under chapter 19.138 RCW;

((~~(xix)~~)) (xx) Timeshares and timeshare salespersons under chapter 64.36 RCW;

((~~(xx)~~)) (xxi) Whitewater river outfitters under chapter 79A.60 RCW;

((~~(xxi)~~)) (xxii) Home inspectors under chapter 18.280 RCW;

((~~(xxii)~~)) (xxiii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

((~~(xxiii)~~)) (xxiv) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

NEW SECTION. **Sec.**  Sections 1 through 17 of this act constitute a new chapter in Title 18 RCW.

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