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**HOUSE BILL 1402**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Vick, Kirby, Jacobsen, and Dufault

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

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

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

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

(3) Furthermore the legislature acknowledges that unnecessary government regulation leads to economic barriers, it is critically important that as new professional licensing regulations which may impact an individual's right to employment in a profession are considered, that full consideration of the potential benefits and harms first be weighed in an official, consistent, and equitable manner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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