

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/SCS/HCS/House Bill No. 1500, Page 1, Section Title, Lines 5-6,

2 by striking "board of cosmetology and barber examiners" and
 3 inserting in lieu thereof the following: "reduction in
 4 regulation of certain occupations"; and

5 Further amend said bill and page, section A, line 6 of said
 6 page, by inserting immediately after said line the following:

7 "324.047. 1. The purpose of this section is to promote
 8 general welfare by establishing guidelines for the regulation of
 9 occupations and professions not regulated prior to January 1,
 10 2019, and guidelines for combining any additional occupations or
 11 professions under a single license regulated by the state prior
 12 to January 1, 2019.

13 2. For purposes of this section, the following terms mean:

14 (1) "Applicant group", any occupational or professional
 15 group or organization, any individual, or any other interested
 16 party that seeks to be licensed or further regulated or supports
 17 any bill that proposes to combine any additional occupations or
 18 professions under a single license regulated by the state prior
 19 to January 1, 2019;

20 (2) "Certification", a program in which the government
 21 grants nontransferable recognition to an individual who meets

1 personal qualifications established by a regulatory entity. Upon
2 approval, the individual may use "certified" as a designated
3 title. This term shall not be synonymous with an occupational
4 license;

5 (3) "Department", the department of insurance, financial
6 institutions and professional registration;

7 (4) "Director", the director of the division of
8 professional registration;

9 (5) "Division", the division of professional registration;

10 (6) "General welfare", the concern of the government for
11 the health, peace, morality, and safety of its residents;

12 (7) "Lawful occupation", a course of conduct, pursuit, or
13 profession that includes the sale of goods or services that are
14 not themselves illegal to sell irrespective of whether the
15 individual selling them is subject to an occupational regulation;

16 (8) "Least restrictive type of occupational regulation",
17 the regulation that is least restrictive, in which the following
18 list of regulations in order from least to most restrictive is
19 used to make such determination:

20 (a) Bonding or insurance;

21 (b) Registration;

22 (c) Certification;

23 (d) Occupational license;

24 (9) "Occupational license", a nontransferable authorization
25 in law for an individual to perform a lawful occupation for
26 compensation based on meeting personal qualifications established
27 by a regulatory entity and that, if not possessed, prohibits the
28 individual from performing the occupation for compensation;

29 (10) "Occupational regulation", a statute, ordinance, rule,

1 practice, policy, or other law requiring an individual to possess
2 certain personal qualifications to work in a lawful occupation;

3 (11) "Personal qualifications", criteria related to an
4 individual's personal background, including completion of an
5 approved educational program, satisfactory performance on an
6 examination, work experience, criminal history, and completion of
7 continuing education;

8 (12) "Practitioner", an individual who has achieved
9 knowledge and skill by practice and is actively engaged in a
10 specified occupation or profession;

11 (13) "Registration", a requirement established by the
12 general assembly in which an individual:

13 (a) Submits notification to a state agency; and

14 (b) May use "registered" as a designated title.

15
16 Notification may include the individual's name and address, the
17 individual's agent for service of process, the location of the
18 activity to be performed, and a description of the service the
19 individual provides. Registration may include a requirement to
20 post a bond but does not include education or experience
21 requirements. If the requirement of registration is not met, the
22 individual is prohibited from performing the occupation for
23 compensation or using "registered" as a designated title. The
24 term "registration" shall not be synonymous with an occupational
25 license;

26 (14) "Regulatory entity", any board, commission, agency,
27 division, or other unit or subunit of state government that
28 regulates one or more professions, occupations, industries,
29 businesses, or other endeavors in this state;

1 (15) "State agency", every state office, department, board,
2 commission, regulatory entity, and agency of the state. The term
3 "state agency" includes, if provided by law, programs and
4 activities involving less than the full responsibility of a state
5 agency;

6 (16) "Substantial burden", a requirement in an occupational
7 regulation that imposes significant difficulty or cost on an
8 individual seeking to enter into or continue in a lawful
9 occupation and is more than an incidental burden.

10 3. All individuals may engage in the occupation of their
11 choice, free from unreasonable government regulation. The state
12 shall not impose a substantial burden on an individual's pursuit
13 of his or her occupation or profession unless there is a
14 reasonable interest for the state to protect the general welfare.
15 If such an interest exists, the regulation adopted by the state
16 shall be the least restrictive type of occupational regulation
17 consistent with the public interest to be protected.

18 4. All bills introduced in the general assembly to
19 regulate, pursuant to subsection 6 of this section, an occupation
20 or profession shall be reviewed according to the following
21 criteria. An occupation or profession shall be regulated by the
22 state if:

23 (1) Unregulated practice could cause harm and endanger the
24 general welfare, and the potential for further harm and
25 endangerment is recognizable;

26 (2) The public can reasonably be expected to benefit from
27 an assurance of personal qualifications; and

28 (3) The general welfare cannot be sufficiently protected by
29 other means.

1 5. After evaluating the criteria in subdivision (3) of this
2 subsection and considering governmental, economic, and societal
3 costs and benefits, if the general assembly finds that the state
4 has a reasonable interest in regulating, pursuant to subsection 6
5 of this section, an occupation or profession not previously
6 regulated by law, the most efficient form of regulation shall be
7 implemented, consistent with this section and with the need to
8 protect the general welfare, as follows:

9 (1) If the threat to the general welfare resulting from the
10 practitioner's services is easily predictable, the regulation
11 shall implement a system of insurance, bonding, or registration;

12 (2) If the consumer has challenges accessing credentialing
13 information or possesses significantly less information on how to
14 report abuses such that the practitioner puts the consumer in a
15 disadvantageous position relative to the practitioner to judge
16 the quality of the practitioner's services, the regulation shall
17 implement a system of certification; and

18 (3) If other regulatory structures, such as bonding,
19 insurance, registration, and certification, insufficiently
20 protect the general welfare from recognizable harm, the
21 regulation shall implement a system of licensing.

22 6. After January 1, 2019, any relevant regulatory entity
23 shall report, and the department shall make available to the
24 general assembly, upon the filing of a bill that proposes
25 additional regulation of a profession or occupation currently
26 regulated by the regulatory entity, the following factors to the
27 department:

28 (1) A description of the professional or occupational group
29 proposed for expansion of regulation, including the number of

1 individuals or business entities that would be subject to
2 regulation to the extent that such information is available; the
3 names and addresses of associations, organizations, and other
4 groups representing the practitioners; and an estimate of the
5 number of practitioners in each group;

6 (2) Whether practice of the profession or occupation
7 proposed for expansion of regulation requires such a specialized
8 skill that the public is not qualified to select a competent
9 practitioner without assurances that minimum qualifications have
10 been met;

11 (3) The nature and extent of potential harm to the public
12 if the profession or occupation is not regulated as described in
13 the bill, the extent to which there is a threat to the general
14 welfare, and production of evidence of potential harm, including
15 a description of any complaints filed with state law enforcement
16 authorities, courts, departmental agencies, professional or
17 occupational boards, and professional and occupational
18 associations that have been lodged against practitioners of the
19 profession or occupation in this state within the past five
20 years. Notwithstanding the provisions of this section or any
21 other section, the relevant regulatory entity shall provide, and
22 the department shall make available to the general assembly, the
23 information relating to such complaints even if the information
24 is considered a closed record or otherwise confidential; except
25 that, the regulatory entity and the department shall redact names
26 and other personally identifiable information from the
27 information released;

28 (4) A description of the voluntary efforts made by
29 practitioners of the profession or occupation to protect the

1 public through self-regulation, private certifications,
2 membership in professional or occupational associations, or
3 academic credentials and a statement of why these efforts are
4 inadequate to protect the public;

5 (5) The extent to which expansion of regulation of the
6 profession or occupation will increase the cost of goods or
7 services provided by practitioners and the overall cost-
8 effectiveness and economic impact of the proposed regulation,
9 including the direct cost to the government and the indirect
10 costs to consumers;

11 (6) The extent to which expansion of regulation of the
12 profession or occupation would increase or decrease the
13 availability of services to the public;

14 (7) The extent to which existing legal remedies are
15 inadequate to prevent or redress the kinds of harm potentially
16 resulting from the lack of the requirements outlined in the bill;

17 (8) Why bonding and insurance, registration, certification,
18 occupational license to practice, or another type of regulation
19 is being proposed, why that regulatory alternative was chosen,
20 and whether the proposed method of regulation is appropriate;

21 (9) A list of other states that regulate the profession or
22 occupation, the type of regulation, copies of other states' laws,
23 and available evidence from those states of the effect of
24 regulation on the profession or occupation in terms of a
25 before-and-after analysis;

26 (10) The details of any previous efforts in this state to
27 implement regulation of the profession or occupation;

28 (11) Whether the proposed requirements for regulation
29 exceed the national industry standards of minimal competence, if

1 such standards exist, and what those standards are if they exist;
2 and

3 (12) The method proposed to finance the proposed regulation
4 and financial data pertaining to whether the proposed regulation
5 can be reasonably financed by current or proposed licensees
6 through dedicated revenue mechanisms.

7 7. If no existing regulatory entity regulates the
8 occupation or profession to be regulated in the bill, the
9 department shall report and make available to the general
10 assembly, upon the filing of a bill after January 1, 2019, that
11 proposes new regulation of a profession or occupation, the
12 following factors:

13 (1) A description of the professional or occupational group
14 proposed for regulation, including the number of individuals or
15 business entities that would be subject to regulation to the
16 extent that such information is available; the names and
17 addresses of associations, organizations, and other groups
18 representing the practitioners; and an estimate of the number of
19 practitioners in each group;

20 (2) The nature and extent of potential harm to the public
21 if the profession or occupation is not regulated, the extent to
22 which there is a threat to the general welfare, and production of
23 evidence of potential harm, including a description of any
24 complaints filed with state law enforcement authorities, courts,
25 departmental agencies, professional or occupational boards, and
26 professional and occupational associations that have been lodged
27 against practitioners of the profession or occupation in this
28 state within the past five years. Notwithstanding the provisions
29 of this section or any other section, the department shall

1 release the information relating to such complaints even if the
2 information is considered a closed record or otherwise
3 confidential; except that, the department shall redact names and
4 other personally identifiable information from the information
5 released;

6 (3) A list of other states that regulate the profession or
7 occupation, the type of regulation, copies of other states' laws,
8 and available evidence from those states of the effect of
9 regulation on the profession or occupation in terms of a
10 before-and-after analysis;

11 (4) The details of any previous efforts in this state to
12 implement regulation of the profession or occupation; and

13 (5) Whether the proposed requirements for regulation exceed
14 the national industry standards of minimal competence, if such
15 standards exist, and what those standards are if they exist.

16 8. After January 1, 2019, applicant groups may report to
17 the department, and the department shall make available to the
18 general assembly, any of the information required in subsection 6
19 or 7 of this section and whether the profession or occupation
20 plans to apply for mandated benefits.

21 Further amend the title and enacting clause accordingly.
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