

REFERENCE TITLE: **businesses; professions; regulation restrictions**

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2517

Introduced by

Representatives Petersen, Borrelli, Boyer, Carter, Fann, Gowan, Kern,
Leach, Mitchell, Montenegro, Olson, Senator Dial: Representatives Allen J,
Barton, Bowers, Brophy McGee, Campbell, Cobb, Finchem, Lawrence,
Livingston, Mesnard, Rivero, Thorpe, Townsend, Senators Barto, Biggs,
Burgess, Kavanagh, Lesko, Shooter, Yee

AN ACT

**AMENDING TITLE 9, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5;
AMENDING TITLE 11, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2;
AMENDING TITLE 41, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11;
RELATING TO THE REGULATION OF BUSINESSES AND PROFESSIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 7, Arizona Revised Statutes, is amended by
3 adding article 5, to read:

4 ARTICLE 5. BUSINESSES AND PROFESSIONS REGULATION

5 9-851. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "ENTRY REGULATION" MEANS ANY RULE, REGULATION, POLICY, FEE,
8 CONDITION, TEST, PERMIT, LICENSE, ADMINISTRATIVE PRACTICE OR OTHER PROVISION
9 RELATING TO ENTRY INTO OR PARTICIPATION IN A MARKET, WITH OR WITHOUT THE
10 SUPPORT OF PUBLIC SUBSIDIES OR USER FEES, OR BOTH. ENTRY REGULATION DOES NOT
11 INCLUDE ANY ZONING ORDINANCE AS DEFINED IN SECTION 9-462.

12 2. "PUBLIC SERVICE RESTRICTION" MEANS ANY RULE, REGULATION, POLICY,
13 FEE, CONDITION, TEST, PERMIT, LICENSE OR OTHER ADMINISTRATIVE PRACTICE, WITH
14 OR WITHOUT THE SUPPORT OF PUBLIC SUBSIDIES OR USER FEES, OR BOTH.

15 3. "SUBSIDIES" MEANS TAXES, GRANTS, USER FEES OR OTHER MONIES RECEIVED
16 BY OR ON BEHALF OF A CITY OR TOWN.

17 4. "WELFARE" MEANS THE PROTECTION OF MEMBERS OF THE PUBLIC AGAINST
18 FRAUD OR HARM. WELFARE DOES NOT INCLUDE THE PROTECTION OF EXISTING
19 BUSINESSES, WHETHER PUBLICLY OR PRIVATELY OWNED, AGAINST COMPETITION.

20 9-852. Businesses and professions; entry regulations; public
21 service restrictions; limitation

22 A CITY OR TOWN SHALL LIMIT ALL ENTRY REGULATIONS AND PUBLIC SERVICE
23 RESTRICTIONS APPLICABLE TO BUSINESSES AND PROFESSIONS TO ENTRY REGULATIONS
24 AND PUBLIC SERVICE RESTRICTIONS THAT ARE DEMONSTRABLY NECESSARY AND CAREFULLY
25 TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES.

26 9-853. Comprehensive review; entry regulations; action

27 A. WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH CITY
28 OR TOWN SHALL CONDUCT A COMPREHENSIVE REVIEW OF ALL ENTRY REGULATIONS WITHIN
29 THE CITY'S OR TOWN'S JURISDICTION THAT SHALL STATE:

30 1. WITH SPECIFICITY THE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES
31 SERVED BY THE REGULATION.

32 2. THE REASON THAT THE REGULATION IS NECESSARY TO SERVE THE SPECIFIED
33 OBJECTIVES.

34 B. IF THE CITY OR TOWN FINDS THAT ANY ENTRY REGULATION CONFLICTS WITH
35 SECTION 9-852, THE CITY OR TOWN SHALL:

36 1. REPEAL THE ENTRY REGULATION OR MODIFY THE ENTRY REGULATION TO
37 COMPLY WITH SECTION 9-852 IF ADMINISTRATIVE ACTION IS REQUIRED.

38 2. RECOMMEND LEGISLATIVE ACTIONS TO REPEAL OR AMEND THE ENTRY
39 REGULATION TO COMPLY WITH SECTION 9-852 IF LEGISLATIVE ACTION IS REQUIRED.

40 C. WITHIN FIFTEEN MONTHS AFTER ENACTING A NEW ENTRY REGULATION, EACH
41 CITY OR TOWN SHALL REPORT TO THE LEGISLATURE ON ALL ACTIONS TAKEN TO COMPLY
42 WITH THIS SECTION.

1 9-854. Administrative proceedings

2 A. ANY PERSON MAY PETITION A CITY OR TOWN TO REPEAL OR MODIFY ANY
3 ENTRY REGULATION OR PUBLIC SERVICE RESTRICTION WITHIN THE CITY'S OR TOWN'S
4 JURISDICTION.

5 B. WITHIN NINETY DAYS AFTER A PETITION HAS BEEN FILED PURSUANT TO
6 SUBSECTION A OF THIS SECTION, THE CITY OR TOWN SHALL REPEAL THE ENTRY
7 REGULATION OR PUBLIC SERVICE RESTRICTION, MODIFY THE ENTRY REGULATION OR
8 PUBLIC SERVICE RESTRICTION TO COMPLY WITH SECTION 9-852 OR STATE THE BASIS ON
9 WHICH THE CITY OR TOWN CONCLUDES THAT THE ENTRY REGULATION OR PUBLIC
10 RESTRICTION COMPLIES WITH SECTION 9-852.

11 9-855. Enforcement; fees and costs

12 A. AFTER THE NINETY-DAY PERIOD, IF THE CITY OR TOWN HAS NOT ACTED ON A
13 PETITION FILED PURSUANT TO SECTION 9-854, THE PERSON THAT FILED THE PETITION
14 MAY FILE AN ACTION IN A COURT OF GENERAL JURISDICTION.

15 B. IN ORDER FOR A PLAINTIFF TO PREVAIL IN AN ENTRY REGULATION
16 CHALLENGE, THE COURT MUST FIND BY A PREPONDERANCE OF EVIDENCE THAT THE
17 CHALLENGED ENTRY REGULATION ON ITS FACE OR IN ITS EFFECT BURDENS THE CREATION
18 OF A BUSINESS, THE ENTRY OF A BUSINESS INTO A PARTICULAR MARKET OR THE ENTRY
19 INTO A PROFESSION OR OCCUPATION AND THAT EITHER:

20 1. THE CHALLENGED ENTRY REGULATION IS NOT DEMONSTRABLY NECESSARY AND
21 CAREFULLY TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE
22 OBJECTIVES.

23 2. IF THE CHALLENGED ENTRY REGULATION IS DEMONSTRABLY NECESSARY AND
24 CAREFULLY TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE
25 OBJECTIVES, THESE OBJECTIVES CAN BE EFFECTIVELY SERVED BY REGULATIONS THAT
26 ARE LESS BURDENSOME TO ECONOMIC OPPORTUNITY.

27 C. IN ORDER FOR A PLAINTIFF TO PREVAIL IN A PUBLIC SERVICE RESTRICTION
28 CHALLENGE, THE COURT MUST FIND BY A PREPONDERANCE OF EVIDENCE THAT EITHER:

29 1. THE CHALLENGED PUBLIC SERVICE RESTRICTION ON ITS FACE OR IN ITS
30 EFFECT IS NOT DEMONSTRABLY NECESSARY AND CAREFULLY TAILORED TO FULFILL
31 LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES.

32 2. IF THE CHALLENGED PUBLIC SERVICE RESTRICTION ON ITS FACE OR IN ITS
33 EFFECT IS DEMONSTRABLY NECESSARY AND CAREFULLY TAILORED TO FULFILL LEGITIMATE
34 PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES, THESE OBJECTIVES CAN BE
35 EFFECTIVELY SERVED BY RESTRICTIONS THAT ALLOW GREATER PRIVATE PARTICIPATION.

36 D. ON A FINDING FOR THE PLAINTIFF, THE COURT SHALL ENJOIN FURTHER
37 ENFORCEMENT OF THE CHALLENGED ENTRY REGULATION OR PUBLIC SERVICE RESTRICTION
38 AND SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO THE PLAINTIFF.

39 Sec. 2. Title 11, chapter 11, Arizona Revised Statutes, is amended by
40 adding article 2, to read:

41 ARTICLE 2. BUSINESSES AND PROFESSIONS REGULATION

42 11-1621. Definitions

43 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

44 1. "ENTRY REGULATION" MEANS ANY RULE, REGULATION, POLICY, FEE,
45 CONDITION, TEST, PERMIT, LICENSE, ADMINISTRATIVE PRACTICE OR OTHER PROVISION

1 RELATING TO ENTRY INTO OR PARTICIPATION IN A MARKET, WITH OR WITHOUT THE
2 SUPPORT OF PUBLIC SUBSIDIES OR USER FEES, OR BOTH. ENTRY REGULATION DOES NOT
3 INCLUDE ANY ZONING ORDINANCE AS DEFINED IN SECTION 11-801.

4 2. "PUBLIC SERVICE RESTRICTION" MEANS ANY RULE, REGULATION, POLICY,
5 FEE, CONDITION, TEST, PERMIT, LICENSE OR OTHER ADMINISTRATIVE PRACTICE, WITH
6 OR WITHOUT THE SUPPORT OF PUBLIC SUBSIDIES OR USER FEES, OR BOTH.

7 3. "SUBSIDIES" MEANS TAXES, GRANTS, USER FEES OR OTHER MONIES RECEIVED
8 BY OR ON BEHALF OF A COUNTY.

9 4. "WELFARE" MEANS THE PROTECTION OF MEMBERS OF THE PUBLIC AGAINST
10 FRAUD OR HARM. WELFARE DOES NOT INCLUDE THE PROTECTION OF EXISTING
11 BUSINESSES, WHETHER PUBLICLY OR PRIVATELY OWNED, AGAINST COMPETITION.

12 11-1622. Businesses and professions; entry regulations; public
13 service restrictions; limitations

14 A COUNTY SHALL LIMIT ALL ENTRY REGULATIONS AND PUBLIC SERVICE
15 RESTRICTIONS APPLICABLE TO BUSINESSES AND PROFESSIONS TO ENTRY REGULATIONS
16 AND PUBLIC SERVICE RESTRICTIONS THAT ARE DEMONSTRABLY NECESSARY AND CAREFULLY
17 TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES.

18 11-1623. Comprehensive review; entry regulations; action

19 A. WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH
20 COUNTY SHALL CONDUCT A COMPREHENSIVE REVIEW OF ALL ENTRY REGULATIONS WITHIN
21 THE COUNTY'S JURISDICTION THAT SHALL STATE:

22 1. WITH SPECIFICITY THE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES
23 SERVED BY THE REGULATION.

24 2. THE REASON THAT THE REGULATION IS NECESSARY TO SERVE THE SPECIFIED
25 OBJECTIVES.

26 B. IF THE COUNTY FINDS THAT ANY ENTRY REGULATION CONFLICTS WITH
27 SECTION 11-1622, THE COUNTY SHALL:

28 1. REPEAL THE ENTRY REGULATION OR MODIFY THE ENTRY REGULATION TO
29 COMPLY WITH SECTION 11-1622 IF ADMINISTRATIVE ACTION IS REQUIRED.

30 2. RECOMMEND LEGISLATIVE ACTIONS TO REPEAL OR AMEND THE ENTRY
31 REGULATION TO COMPLY WITH SECTION 11-1622 IF LEGISLATIVE ACTION IS REQUIRED.

32 C. WITHIN FIFTEEN MONTHS AFTER ENACTING A NEW ENTRY REGULATION, EACH
33 COUNTY SHALL REPORT TO THE LEGISLATURE ON ALL ACTIONS TAKEN TO COMPLY WITH
34 THIS SECTION.

35 11-1624. Administrative proceedings

36 A. ANY PERSON MAY PETITION A COUNTY TO REPEAL OR MODIFY ANY ENTRY
37 REGULATION OR PUBLIC SERVICE RESTRICTION WITHIN THE COUNTY'S JURISDICTION.

38 B. WITHIN NINETY DAYS AFTER A PETITION HAS BEEN FILED PURSUANT TO
39 SUBSECTION A OF THIS SECTION, THE COUNTY SHALL REPEAL THE ENTRY REGULATION OR
40 PUBLIC SERVICE RESTRICTION, MODIFY THE ENTRY REGULATION OR PUBLIC SERVICE
41 RESTRICTION TO COMPLY WITH SECTION 11-1622 OR STATE THE BASIS ON WHICH THE
42 COUNTY CONCLUDES THAT THE ENTRY REGULATION OR PUBLIC RESTRICTION COMPLIES
43 WITH SECTION 11-1622.

1 11-1625. Enforcement: fees and costs

2 A. AFTER THE NINETY-DAY PERIOD, IF THE COUNTY HAS NOT ACTED ON A
3 PETITION FILED PURSUANT TO SECTION 11-1624, THE PERSON THAT FILED THE
4 PETITION MAY FILE AN ACTION IN A COURT OF GENERAL JURISDICTION.

5 B. IN ORDER FOR A PLAINTIFF TO PREVAIL IN AN ENTRY REGULATION
6 CHALLENGE, THE COURT MUST FIND BY A PREPONDERANCE OF EVIDENCE THAT THE
7 CHALLENGED ENTRY REGULATION ON ITS FACE OR IN ITS EFFECT BURDENS THE CREATION
8 OF A BUSINESS, THE ENTRY OF A BUSINESS INTO A PARTICULAR MARKET OR THE ENTRY
9 INTO A PROFESSION OR OCCUPATION AND THAT EITHER:

10 1. THE CHALLENGED ENTRY REGULATION IS NOT DEMONSTRABLY NECESSARY AND
11 CAREFULLY TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE
12 OBJECTIVES.

13 2. IF THE CHALLENGED ENTRY REGULATION IS DEMONSTRABLY NECESSARY AND
14 CAREFULLY TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE
15 OBJECTIVES, THESE OBJECTIVES CAN BE EFFECTIVELY SERVED BY REGULATIONS THAT
16 ARE LESS BURDENSOME TO ECONOMIC OPPORTUNITY.

17 C. IN ORDER FOR A PLAINTIFF TO PREVAIL IN A PUBLIC SERVICE RESTRICTION
18 CHALLENGE, THE COURT MUST FIND BY A PREPONDERANCE OF EVIDENCE THAT EITHER:

19 1. THE CHALLENGED PUBLIC SERVICE RESTRICTION ON ITS FACE OR IN ITS
20 EFFECT IS NOT DEMONSTRABLY NECESSARY AND CAREFULLY TAILORED TO FULFILL
21 LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES.

22 2. IF THE CHALLENGED PUBLIC SERVICE RESTRICTION ON ITS FACE OR IN ITS
23 EFFECT IS DEMONSTRABLY NECESSARY AND CAREFULLY TAILORED TO FULFILL LEGITIMATE
24 PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES, THESE OBJECTIVES CAN BE
25 EFFECTIVELY SERVED BY RESTRICTIONS THAT ALLOW GREATER PRIVATE PARTICIPATION.

26 D. ON A FINDING FOR THE PLAINTIFF, THE COURT SHALL ENJOIN FURTHER
27 ENFORCEMENT OF THE CHALLENGED ENTRY REGULATION OR PUBLIC SERVICE RESTRICTION
28 AND SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO THE PLAINTIFF.

29 Sec. 3. Title 41, chapter 6, Arizona Revised Statutes, is amended by
30 adding article 11, to read:

31 ARTICLE 11. BUSINESSES AND PROFESSIONS REGULATION

32 41-1093. Definitions

33 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

34 1. "ENTRY REGULATION" MEANS ANY RULE, REGULATION, POLICY, FEE,
35 CONDITION, TEST, PERMIT, LICENSE, ADMINISTRATIVE PRACTICE OR OTHER PROVISION
36 RELATING TO ENTRY INTO OR PARTICIPATION IN A MARKET, WITH OR WITHOUT THE
37 SUPPORT OF PUBLIC SUBSIDIES OR USER FEES, OR BOTH.

38 2. "PUBLIC SERVICE RESTRICTION" MEANS ANY RULE, REGULATION, POLICY,
39 FEE, CONDITION, TEST, PERMIT, LICENSE OR OTHER ADMINISTRATIVE PRACTICE, WITH
40 OR WITHOUT THE SUPPORT OF PUBLIC SUBSIDIES OR USER FEES, OR BOTH.

41 3. "SUBSIDIES" MEANS TAXES, GRANTS, USER FEES OR OTHER MONIES RECEIVED
42 BY OR ON BEHALF OF AN AGENCY.

43 4. "WELFARE" MEANS THE PROTECTION OF MEMBERS OF THE PUBLIC AGAINST
44 FRAUD OR HARM. WELFARE DOES NOT INCLUDE THE PROTECTION OF EXISTING

1 BUSINESSES OR AGENCIES, WHETHER PUBLICLY OR PRIVATELY OWNED, AGAINST
2 COMPETITION.

3 41-1093.01. Businesses and professions; entry regulations;
4 public service restrictions; limitation

5 AN AGENCY SHALL LIMIT ALL ENTRY REGULATIONS AND PUBLIC SERVICE
6 RESTRICTIONS APPLICABLE TO BUSINESSES AND PROFESSIONS TO ENTRY REGULATIONS
7 AND PUBLIC SERVICE RESTRICTIONS THAT ARE DEMONSTRABLY NECESSARY AND CAREFULLY
8 TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES.

9 41-1093.02. Comprehensive review; entry regulations; action

10 A. WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH
11 AGENCY SHALL CONDUCT A COMPREHENSIVE REVIEW OF ALL ENTRY REGULATIONS WITHIN
12 THE AGENCY'S JURISDICTION THAT SHALL STATE:

13 1. WITH SPECIFICITY THE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES
14 SERVED BY THE REGULATION.

15 2. THE REASON THAT THE REGULATION IS NECESSARY TO SERVE THE SPECIFIED
16 OBJECTIVES.

17 B. IF THE AGENCY FINDS THAT ANY ENTRY REGULATION CONFLICTS WITH
18 SECTION 41-1093.01, THE AGENCY SHALL:

19 1. REPEAL THE ENTRY REGULATION OR MODIFY THE ENTRY REGULATION TO
20 COMPLY WITH SECTION 41-1093.01 IF ADMINISTRATIVE ACTION IS REQUIRED.

21 2. RECOMMEND LEGISLATIVE ACTIONS TO REPEAL OR AMEND THE ENTRY
22 REGULATION TO COMPLY WITH SECTION 41-1093.01 IF LEGISLATIVE ACTION IS
23 REQUIRED.

24 C. WITHIN FIFTEEN MONTHS AFTER ENACTING A NEW ENTRY REGULATION, EACH
25 AGENCY SHALL REPORT TO THE LEGISLATURE ON ALL ACTIONS TAKEN TO COMPLY WITH
26 THIS SECTION.

27 41-1093.03. Administrative proceedings

28 A. ANY PERSON MAY PETITION AN AGENCY TO REPEAL OR MODIFY ANY ENTRY
29 REGULATION OR PUBLIC SERVICE RESTRICTION WITHIN THE AGENCY'S JURISDICTION.

30 B. WITHIN NINETY DAYS AFTER A PETITION HAS BEEN FILED PURSUANT TO
31 SUBSECTION A OF THIS SECTION, THE AGENCY SHALL REPEAL THE ENTRY REGULATION OR
32 PUBLIC SERVICE RESTRICTION, MODIFY THE ENTRY REGULATION OR PUBLIC SERVICE
33 RESTRICTION TO COMPLY WITH SECTION 41-1093.01 OR STATE THE BASIS ON WHICH THE
34 AGENCY CONCLUDES THAT THE ENTRY REGULATION OR PUBLIC RESTRICTION COMPLIES
35 WITH SECTION 41-1093.01.

36 41-1093.04. Enforcement; fees and costs

37 A. AFTER THE NINETY-DAY PERIOD, IF THE AGENCY HAS NOT ACTED ON A
38 PETITION FILED PURSUANT TO SECTION 41-1093.03, THE PERSON THAT FILED THE
39 PETITION MAY FILE AN ACTION IN A COURT OF GENERAL JURISDICTION.

40 B. IN ORDER FOR A PLAINTIFF TO PREVAIL IN AN ENTRY REGULATION
41 CHALLENGE, THE COURT MUST FIND BY A PREPONDERANCE OF EVIDENCE THAT THE
42 CHALLENGED ENTRY REGULATION ON ITS FACE OR IN ITS EFFECT BURDENS THE CREATION
43 OF A BUSINESS, THE ENTRY OF A BUSINESS INTO A PARTICULAR MARKET OR THE ENTRY
44 INTO A PROFESSION OR OCCUPATION AND THAT EITHER:

1 1. THE CHALLENGED ENTRY REGULATION IS NOT DEMONSTRABLY NECESSARY AND
2 CAREFULLY TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE
3 OBJECTIVES.

4 2. IF THE CHALLENGED ENTRY REGULATION IS DEMONSTRABLY NECESSARY AND
5 CAREFULLY TAILORED TO FULFILL LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE
6 OBJECTIVES, THESE OBJECTIVES CAN BE EFFECTIVELY SERVED BY REGULATIONS THAT
7 ARE LESS BURDENSOME TO ECONOMIC OPPORTUNITY.

8 C. IN ORDER FOR A PLAINTIFF TO PREVAIL IN A PUBLIC SERVICE RESTRICTION
9 CHALLENGE, THE COURT MUST FIND BY A PREPONDERANCE OF EVIDENCE THAT EITHER:

10 1. THE CHALLENGED PUBLIC SERVICE RESTRICTION ON ITS FACE OR IN ITS
11 EFFECT IS NOT DEMONSTRABLY NECESSARY AND CAREFULLY TAILORED TO FULFILL
12 LEGITIMATE PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES.

13 2. IF THE CHALLENGED PUBLIC SERVICE RESTRICTION ON ITS FACE OR IN ITS
14 EFFECT IS DEMONSTRABLY NECESSARY AND CAREFULLY TAILORED TO FULFILL LEGITIMATE
15 PUBLIC HEALTH, SAFETY OR WELFARE OBJECTIVES, THESE OBJECTIVES CAN BE
16 EFFECTIVELY SERVED BY RESTRICTIONS THAT ALLOW GREATER PRIVATE PARTICIPATION.

17 D. ON A FINDING FOR THE PLAINTIFF, THE COURT SHALL ENJOIN FURTHER
18 ENFORCEMENT OF THE CHALLENGED ENTRY REGULATION OR PUBLIC SERVICE RESTRICTION
19 AND SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO THE PLAINTIFF.

20 Sec. 4. Legislative findings; intent

21 A. The legislature finds and declares that:

22 1. The right of individuals to pursue a chosen business or profession,
23 free from arbitrary or excessive government interference, is a fundamental
24 civil right.

25 2. The freedom to earn an honest living traditionally has provided the
26 surest means for economic mobility.

27 3. In recent years, many regulations of entry into businesses and
28 professions have exceeded legitimate public purposes and have had the effect
29 of arbitrarily limiting entry and reducing competition.

30 4. The burden of excessive regulation is borne most heavily by
31 individuals outside the economic mainstream, for whom opportunities for
32 economic advancement are curtailed.

33 B. Because it is in the public interest, by this act the legislature
34 intends to:

35 1. Ensure the right of all individuals to pursue legitimate
36 entrepreneurial and professional opportunities to the limits of their talent
37 and ambition.

38 2. Provide the means for the vindication of this right.

39 3. Ensure that regulations of entry into businesses and professions
40 are demonstrably necessary and carefully tailored to fulfill legitimate
41 health, safety and welfare objectives.

42 Sec. 5. Short title

43 This act may be cited as the "Right to Earn a Living Act".