

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

**CHAPTER 138**  
**SENATE BILL 1437**

AN ACT

AMENDING SECTIONS 41-1033, 41-1052, 41-1092.07 AND 41-1092.08, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11; RELATING TO ADMINISTRATIVE PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1033, Arizona Revised Statutes, is amended to  
3 read:

4 41-1033. Petition for a rule or review of an agency practice,  
5 substantive policy statement or final rule; notice

6 A. Any person, in a manner and form prescribed by the agency, may  
7 petition an agency ~~requesting~~ TO REQUEST the making of a final rule or a  
8 review of an existing agency practice or substantive policy statement that  
9 the petitioner alleges to constitute a rule. The petition shall clearly  
10 state the rule, agency practice or substantive policy statement ~~which~~ THAT  
11 the person wishes the agency to make or review. Within sixty days after  
12 submission of a petition, the agency shall either deny the petition in  
13 writing, stating its reasons for denial, initiate ~~rule making~~ RULEMAKING  
14 proceedings in accordance with this chapter or, if otherwise lawful, make  
15 a rule.

16 B. A person may appeal to the council the agency's final decision  
17 within thirty days after the agency gives written notice pursuant to  
18 subsection A of this section. The appeal shall be limited to whether an  
19 existing agency practice or substantive policy statement constitutes a  
20 rule. The council chairperson shall place this appeal on the agenda of  
21 the council's next meeting if at least three council members make such a  
22 request of the council chairperson within two weeks after the filing of  
23 the appeal.

24 C. A PERSON MAY PETITION THE COUNCIL TO REQUEST A REVIEW OF A FINAL  
25 RULE BASED ON THE PERSON'S BELIEF THAT THE FINAL RULE DOES NOT MEET THE  
26 REQUIREMENTS PRESCRIBED IN SECTION 41-1030.

27 ~~C.~~ D. If the council receives information indicating that an  
28 existing agency practice or substantive policy statement may constitute a  
29 rule OR THAT A FINAL RULE DOES NOT MEET THE REQUIREMENTS PRESCRIBED IN  
30 SECTION 41-1030 and at least four council members request OF the  
31 chairperson that the matter be heard in a public meeting:

32 1. Within ninety days of receipt of the fourth council member  
33 request, the council shall determine ~~if~~ WHETHER the agency practice or  
34 substantive policy statement constitutes a rule OR WHETHER THE FINAL RULE  
35 MEETS THE REQUIREMENTS PRESCRIBED IN SECTION 41-1030.

36 2. Within ten days of receipt of the fourth council member request,  
37 the council shall notify the agency that the matter has been or will be  
38 placed on an agenda.

39 3. Within thirty days of receiving notice from the council, the  
40 agency shall submit a statement that addresses whether the existing agency  
41 practice or substantive policy statement constitutes a rule OR WHETHER THE  
42 FINAL RULE MEETS THE REQUIREMENTS PRESCRIBED IN SECTION 41-1030.

43 ~~D.~~ E. For the purposes of subsection ~~C.~~ D of this section, the  
44 council meeting shall not be held until the expiration of the agency

1 response period prescribed in subsection ~~E~~ D, paragraph 3 of this  
2 ~~subsection~~ SECTION.

3 ~~E~~ F. An agency practice, ~~or~~ substantive policy statement OR FINAL  
4 RULE considered by the council pursuant to this section shall remain in  
5 effect while under consideration of the council. If the council  
6 ultimately decides the agency practice or SUBSTANTIVE POLICY statement  
7 constitutes a rule OR THAT THE FINAL RULE DOES NOT MEET THE REQUIREMENTS  
8 PRESCRIBED IN SECTION 41-1030, the practice, ~~or~~ POLICY statement OR RULE  
9 shall be considered void.

10 G. A COUNCIL DECISION PURSUANT TO THIS SECTION SHALL INCLUDE  
11 FINDINGS OF FACT AND CONCLUSIONS OF LAW, SEPARATELY STATED. CONCLUSIONS  
12 OF LAW SHALL SPECIFICALLY ADDRESS THE AGENCY'S AUTHORITY TO ACT CONSISTENT  
13 WITH SECTION 41-1030.

14 ~~F~~ H. A decision by the agency pursuant to this section is not  
15 subject to judicial review, except that, in addition to the procedure  
16 prescribed in this section or in lieu of the procedure prescribed in this  
17 section, a person may seek declaratory relief pursuant to section 41-1034.

18 I. EACH AGENCY AND THE SECRETARY OF STATE SHALL POST PROMINENTLY ON  
19 THEIR WEBSITE NOTICE OF AN INDIVIDUAL'S RIGHT TO PETITION THE COUNCIL FOR  
20 REVIEW PURSUANT TO THIS SECTION.

21 Sec. 2. Section 41-1052, Arizona Revised Statutes, is amended to  
22 read:

23 41-1052. Council review and approval

24 A. Before filing a final rule subject to this section with the  
25 secretary of state, an agency shall prepare, transmit to the council and  
26 the committee and obtain the council's approval of the rule and its  
27 preamble and economic, small business and consumer impact statement that  
28 meets the requirements of section 41-1055. The office of economic  
29 opportunity shall prepare the economic, small business and consumer impact  
30 statement.

31 B. The council shall accept an early review petition of a proposed  
32 rule, in whole or in part, if the proposed rule is alleged to violate any  
33 of the criteria prescribed in subsection D of this section and if the  
34 early petition is filed by a person who would be adversely impacted by the  
35 proposed rule. The council may determine whether the proposed rule, in  
36 whole or in part, violates any of the criteria prescribed in subsection D  
37 of this section.

38 C. Within one hundred twenty days after receipt of the rule,  
39 preamble and economic, small business and consumer impact statement, the  
40 council shall review and approve or return, in whole or in part, the rule,  
41 preamble or economic, small business and consumer impact statement. An  
42 agency may resubmit a rule, preamble or economic, small business and  
43 consumer impact statement if the council returns the rule, economic, small  
44 business and consumer impact statement or preamble, in whole or in part,  
45 to the agency.

1 D. The council shall not approve the rule unless:  
2 1. The economic, small business and consumer impact statement  
3 contains information from the state, data and analysis prescribed by this  
4 article.  
5 2. The economic, small business and consumer impact statement is  
6 generally accurate.  
7 3. The probable benefits of the rule outweigh within this state the  
8 probable costs of the rule and the agency has demonstrated that it has  
9 selected the alternative that imposes the least burden and costs to  
10 persons regulated by the rule, including paperwork and other compliance  
11 costs, necessary to achieve the underlying regulatory objective.  
12 4. The rule is written in a manner that is clear, concise and  
13 understandable to the general public.  
14 5. The rule is not illegal, inconsistent with legislative intent or  
15 beyond the agency's statutory authority **AND MEETS THE REQUIREMENTS**  
16 **PRESCRIBED IN SECTION 41-1030.**  
17 6. The agency adequately addressed, in writing, the comments on the  
18 proposed rule and any supplemental proposals.  
19 7. The rule is not a substantial change, considered as a whole,  
20 from the proposed rule and any supplemental notices.  
21 8. The preamble discloses a reference to any study relevant to the  
22 rule that the agency reviewed and either did or did not rely on in the  
23 agency's evaluation of or justification for the rule.  
24 9. The rule is not more stringent than a corresponding federal law  
25 unless there is statutory authority to exceed the requirements of that  
26 federal law.  
27 10. If a rule requires a permit, the permitting requirement  
28 complies with section 41-1037.  
29 E. The council shall verify that a rule with new fees does not  
30 violate section 41-1008. The council shall not approve a rule that  
31 contains a fee increase unless two-thirds of the voting quorum present  
32 ~~vote~~ **VOTES** to approve the rule.  
33 F. The council shall verify that a rule with an immediate effective  
34 date complies with section 41-1032. The council shall not approve a rule  
35 with an immediate effective date unless two-thirds of the voting quorum  
36 present ~~vote~~ **VOTES** to approve the rule.  
37 G. If the rule relies on scientific principles or methods,  
38 including a study disclosed pursuant to subsection D, paragraph 8 of this  
39 section, and a person submits an analysis to the council questioning  
40 whether the rule is based on valid scientific or reliable principles or  
41 methods, the council shall not approve the rule unless the council  
42 determines that the rule is based on valid scientific or reliable  
43 principles or methods that are specific and not of a general nature. In  
44 making a determination of reliability or validity, the council shall  
45 consider the following factors as applicable to the rule:

1           1. The authors of the study, principle or method have subject  
2 matter knowledge, skill, experience, training and expertise.

3           2. The study, principle or method is based on sufficient facts or  
4 data.

5           3. The study is the product of reliable principles and methods.

6           4. The study and its conclusions, principles or methods have been  
7 tested or subjected to peer reviewed publications.

8           5. The known or potential error rate of the study, principle or  
9 method has been identified along with its basis.

10          6. The methodology and approach of the study, principle or method  
11 are generally accepted in the scientific community.

12          H. The council may require a representative of an agency whose rule  
13 is under examination to attend a council meeting and answer  
14 questions. The council may also communicate to the agency its comments on  
15 any rule, preamble or economic, small business and consumer impact  
16 statement and require the agency to respond to its comments in writing.

17          I. At any time during the thirty days immediately following receipt  
18 of the rule, a person may submit written comments to the council that are  
19 within the scope of subsection D, E, F or G of this section. The council  
20 may permit testimony at a council meeting within the scope of  
21 subsection D, E, F or G of this section.

22          J. If the agency makes a good faith effort to comply with the  
23 requirements prescribed in this article and has explained in writing the  
24 methodology used to produce the economic, small business and consumer  
25 impact statement, the rule may not be invalidated after it is finalized on  
26 the ground that the contents of the economic, small business and consumer  
27 impact statement are insufficient or inaccurate or on the ground that the  
28 council erroneously approved the rule, except as provided by section  
29 41-1056.01.

30          K. The absence of comments pursuant to subsection D, E, F or G of  
31 this section or article 4.1 of this chapter does not prevent the council  
32 from acting pursuant to this section.

33          L. The council shall review and approve or reject a notice of  
34 proposed expedited ~~rule-making~~ RULEMAKING pursuant to section 41-1027.

35          Sec. 3. Section 41-1092.07, Arizona Revised Statutes, is amended to  
36 read:

37          41-1092.07. Hearings

38          A. A party to a contested case or appealable agency action may file  
39 a nonperemptory motion with the director to disqualify an office  
40 administrative law judge from conducting a hearing for bias, prejudice,  
41 personal interest or lack of technical expertise necessary for a hearing.

42          B. The parties to a contested case or appealable agency action have  
43 the right to be represented by counsel or to proceed without counsel, to  
44 submit evidence and to cross-examine witnesses.

1 C. The administrative law judge may issue subpoenas to compel the  
2 attendance of witnesses and the production of documents. The subpoenas  
3 shall be served and, on application to the superior court, enforced in the  
4 manner provided by law for the service and enforcement of subpoenas in  
5 civil matters. The administrative law judge may administer oaths and  
6 affirmations to witnesses.

7 D. All parties shall have the opportunity to respond and present  
8 evidence and argument on all relevant issues. All relevant evidence is  
9 admissible, but the administrative law judge may exclude evidence if its  
10 probative value is outweighed by the danger of unfair prejudice, by  
11 confusion of the issues or by considerations of undue delay, waste of time  
12 or needless presentation of cumulative evidence. The administrative law  
13 judge shall exercise reasonable control over the manner and order of  
14 cross-examining witnesses and presenting evidence to make the  
15 cross-examination and presentation effective for ascertaining the truth,  
16 avoiding needless consumption of time and protecting witnesses from  
17 harassment or undue embarrassment.

18 E. All hearings shall be recorded. The administrative law judge  
19 shall secure either a court reporter or an electronic means of producing a  
20 clear and accurate record of the proceeding at the agency's expense. Any  
21 party that requests a transcript of the proceeding shall pay the costs of  
22 the transcript to the court reporter or other transcriber.

23 F. Unless otherwise provided by law, the following apply:

24 1. A hearing may be conducted in an informal manner and without  
25 adherence to the rules of evidence required in judicial proceedings.  
26 Neither the manner of conducting the hearing nor the failure to adhere to  
27 the rules of evidence required in judicial proceedings is grounds for  
28 reversing any administrative decision or order if the evidence supporting  
29 the decision or order is substantial, reliable and probative.

30 2. Copies of documentary evidence may be received in the discretion  
31 of the administrative law judge. On request, parties shall be given an  
32 opportunity to compare the copy with the original.

33 3. Notice may be taken of judicially cognizable facts. In  
34 addition, notice may be taken of generally recognized technical or  
35 scientific facts within the agency's specialized knowledge. Parties shall  
36 be notified either before or during the hearing or by reference in  
37 preliminary reports or otherwise of the material noticed including any  
38 staff memoranda or data and they shall be afforded an opportunity to  
39 contest the material so noticed. The agency's experience, technical  
40 competence and specialized knowledge may be used in the evaluation of the  
41 evidence.

42 4. On application of a party or the agency and for use as evidence,  
43 the administrative law judge may permit a deposition to be taken, in the  
44 manner and on the terms designated by the administrative law judge, of a  
45 witness who cannot be subpoenaed or who is unable to attend the hearing.

1 Subpoenas for the production of documents may be ordered by the  
2 administrative law judge if the party seeking the discovery demonstrates  
3 that the party has reasonable need of the materials being sought. All  
4 provisions of law compelling a person under subpoena to testify are  
5 applicable. Fees for attendance as a witness shall be the same as for a  
6 witness in court, unless otherwise provided by law or agency rule.  
7 Notwithstanding section 12-2212, subpoenas, depositions or other discovery  
8 shall not be permitted except as provided by this paragraph or  
9 subsection C of this section.

10 5. Informal disposition may be made by stipulation, agreed  
11 settlement, consent order or default.

12 6. Findings of fact shall be based exclusively on the evidence and  
13 on matters officially noticed.

14 7. A final administrative decision shall include findings of fact  
15 and conclusions of law, separately stated. Findings of fact, if set forth  
16 in statutory language, shall be accompanied by a concise and explicit  
17 statement of the underlying facts supporting the findings. **CONCLUSIONS OF**  
18 **LAW SHALL SPECIFICALLY ADDRESS THE AGENCY'S AUTHORITY TO MAKE THE DECISION**  
19 **CONSISTENT WITH SECTION 41-1030.**

20 G. Except as otherwise provided by law:

21 1. At a hearing on an agency's denial of a license or permit or a  
22 denial of an application or request for modification of a license or  
23 permit, the applicant has the burden of persuasion.

24 2. At a hearing on an agency action to suspend, revoke, terminate  
25 or modify on its own initiative material conditions of a license or  
26 permit, the agency has the burden of persuasion.

27 3. At a hearing on an agency's imposition of fees or penalties or  
28 any agency compliance order, the agency has the burden of persuasion.

29 4. At a hearing held pursuant to ~~title 41,~~ chapter 23 or 24 **OF THIS**  
30 **TITLE**, the appellant or claimant has the burden of persuasion.

31 H. Subsection G of this section does not affect the law governing  
32 burden of persuasion in an agency denial of, or refusal to issue, a  
33 license renewal.

34 Sec. 4. Section 41-1092.08, Arizona Revised Statutes, is amended to  
35 read:

36 **41-1092.08. Final administrative decisions; review; exception**

37 A. The administrative law judge of the office shall issue a written  
38 decision within twenty days after the hearing is concluded. The written  
39 decision shall contain a concise explanation of the reasons supporting the  
40 decision, **INCLUDING THE FINDINGS OF FACT AND CONCLUSIONS OF LAW.** The  
41 administrative law judge shall serve a copy of the decision on the agency.  
42 ~~Upon~~ **ON** request of the agency, the office shall also transmit to the  
43 agency the record of the hearing as described in section 12-904, except as  
44 provided in section 41-1092.01, subsection F.

1 B. Within thirty days after the date the office sends a copy of the  
2 administrative law judge's decision to the head of the agency, executive  
3 director, board or commission, the head of the agency, executive director,  
4 board or commission may review the decision and accept, reject or modify  
5 it. If the head of the agency, executive director, board or commission  
6 declines to review the administrative law judge's decision, the agency  
7 shall serve a copy of the decision on all parties. If the head of the  
8 agency, executive director, board or commission rejects or modifies the  
9 decision, the agency head, executive director, board or commission must  
10 file with the office, except as provided in section 41-1092.01,  
11 subsection F, and serve on all parties a copy of the administrative law  
12 judge's decision with the rejection or modification and a written  
13 justification setting forth the reasons for the rejection or modification  
14 OF EACH FINDING OF FACT OR CONCLUSION OF LAW. IF THERE IS A REJECTION OR  
15 MODIFICATION OF A CONCLUSION OF LAW, THE WRITTEN JUSTIFICATION SHALL BE  
16 SENT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF  
17 REPRESENTATIVES.

18 C. A board or commission whose members are appointed by the  
19 governor may review the decision of the agency head, as provided by law,  
20 and make the final administrative decision.

21 D. Except as otherwise provided in this subsection, if the head of  
22 the agency, THE EXECUTIVE DIRECTOR or a board or commission does not  
23 accept, reject or modify the administrative law judge's decision within  
24 thirty days after the date the office sends a copy of the administrative  
25 law judge's decision to the head of the agency, executive director, board  
26 or commission, as evidenced by receipt of such action by the office by the  
27 thirtieth day, the office shall certify the administrative law judge's  
28 decision as the final administrative decision. If the board or commission  
29 meets monthly or less frequently, if the office sends the administrative  
30 law judge's decision at least thirty days before the next meeting of the  
31 board or commission and if the board or commission does not accept, reject  
32 or modify the administrative law judge's decision at the next meeting of  
33 the board or commission, as evidenced by receipt of such action by the  
34 office within five days after the meeting, the office shall certify the  
35 administrative law judge's decision as the final administrative decision.

36 E. For the purposes of subsections B and D of this section, a copy  
37 of the administrative law judge's decision is sent on personal delivery of  
38 the decision or five days after the decision is mailed to the head of the  
39 agency, executive director, board or commission.

40 F. The decision of the agency head is the final administrative  
41 decision unless either:

42 1. The agency head, executive director, board or commission does  
43 not review the administrative law judge's decision pursuant to  
44 subsection B of this section or does not reject or modify the  
45 administrative law judge's decision as provided in subsection D of this



1 section, in which case the administrative law judge's decision is the  
2 final administrative decision.

3 2. The decision of the agency head is subject to review pursuant to  
4 subsection C of this section.

5 G. If a board or commission whose members are appointed by the  
6 governor makes the final administrative decision as an administrative law  
7 judge or ~~upon~~ ON review of the decision of the agency head, the decision  
8 is not subject to review by the head of the agency.

9 H. A party may appeal a final administrative decision pursuant to  
10 title 12, chapter 7, article 6, except as provided in section 41-1092.09,  
11 subsection B and except that if a party has not requested a hearing ~~upon~~  
12 ON receipt of a notice of appealable agency action pursuant to section  
13 41-1092.03, the appealable agency action is not subject to judicial  
14 review.

15 I. This section does not apply to the Arizona peace officer  
16 standards and training board established by section 41-1821.

17 Sec. 5. Title 41, chapter 6, Arizona Revised Statutes, is amended  
18 by adding article 11, to read:

19 ARTICLE 11. OCCUPATIONAL REGULATION

20 41-1093. Definitions

21 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

22 1. "HEALTH, SAFETY OR WELFARE":

23 (a) MEANS THE PROTECTION OF MEMBERS OF THE PUBLIC AGAINST HARM,  
24 FRAUD OR LOSS, INCLUDING THE PRESERVATION OF PUBLIC SECURITY, ORDER OR  
25 HEALTH.

26 (b) DOES NOT INCLUDE THE PROTECTION OF EXISTING BUSINESSES OR  
27 AGENCIES, WHETHER PUBLICLY OR PRIVATELY OWNED, AGAINST COMPETITION.

28 2. "INDIVIDUAL" MEANS A NATURAL PERSON.

29 3. "OCCUPATIONAL REGULATION":

30 (a) MEANS A RULE, REGULATION, PRACTICE OR POLICY THAT ALLOWS AN  
31 INDIVIDUAL TO USE AN OCCUPATIONAL TITLE OR WORK IN A LAWFUL OCCUPATION,  
32 TRADE OR PROFESSION OR A CEASE AND DESIST DEMAND OR OTHER REGULATORY  
33 REQUIREMENT THAT PREVENTS AN INDIVIDUAL FROM USING AN OCCUPATIONAL TITLE  
34 OR WORKING IN A LAWFUL OCCUPATION, TRADE OR PROFESSION.

35 (b) DOES NOT INCLUDE:

36 (i) A BUSINESS LICENSE, FACILITY LICENSE, BUILDING PERMIT OR ZONING  
37 AND LAND USE REGULATION.

38 (ii) ANY RULE OR REGULATION RELATING TO AN INSTITUTION OR  
39 INDIVIDUAL THAT IS SUBJECT TO TITLE 36, CHAPTER 4, ARTICLE 10 OR  
40 CHAPTER 20.

41 (iii) ANY LICENSE OR REGULATION THAT IS REQUIRED BY FEDERAL LAW.

42 (iv) ANY RULE OR REGULATION ADOPTED BY AN AGENCY THAT IS AUTHORIZED  
43 BY STATUTE AND HAS BEEN APPROVED BY THE COUNCIL PURSUANT TO SECTION  
44 41-1052.

1 (v) ANY RULE OR REGULATION RELATING TO EMERGENCY MEDICAL AND  
2 TRANSPORTATION SERVICES THAT ORIGINATED WITH A PUBLIC ACCESS SYSTEM OR  
3 MEDICAL TRANSPORTATION REQUESTED BY A MEDICAL AUTHORITY OR BY THE PATIENT  
4 FOR WHICH A CERTIFICATE OF NECESSITY IS REQUIRED UNDER SECTION 36-2233.

5 (vi) ANY RULE RELATING TO THE LICENSING OF A SECURITIES DEALER,  
6 SECURITIES SALESMAN, INVESTMENT ADVISER OR INVESTMENT ADVISER  
7 REPRESENTATIVE.

8 41-1093.01. Occupational regulations; limitations

9 AN AGENCY SHALL LIMIT ALL OCCUPATIONAL REGULATIONS TO REGULATIONS  
10 THAT ARE DEMONSTRATED TO BE NECESSARY TO SPECIFICALLY FULFILL A PUBLIC  
11 HEALTH, SAFETY OR WELFARE CONCERN.

12 41-1093.02. Administrative proceedings

13 A. ANY INDIVIDUAL HARMED BY AN OCCUPATIONAL REGULATION MAY PETITION  
14 AN AGENCY TO REPEAL OR MODIFY ANY OCCUPATIONAL REGULATION WITHIN THE  
15 AGENCY'S JURISDICTION.

16 B. WITHIN NINETY DAYS AFTER A PETITION IS FILED, THE AGENCY SHALL  
17 REPEAL THE OCCUPATIONAL REGULATION, MODIFY THE OCCUPATIONAL REGULATION TO  
18 COMPLY WITH SECTION 41-1093.01, RECOMMEND LEGISLATIVE ACTION, IF REQUIRED,  
19 TO REPEAL OR AMEND THE OCCUPATIONAL REGULATION TO COMPLY WITH SECTION  
20 41-1093.01 OR STATE THE BASIS ON WHICH THE AGENCY CONCLUDES THAT THE  
21 OCCUPATIONAL REGULATION COMPLIES WITH SECTION 41-1093.01.

22 41-1093.03. Enforcement; fees and costs

23 A. WHETHER OR NOT A PETITION IS FILED PURSUANT TO SECTION  
24 41-1093.02, ANY INDIVIDUAL MAY FILE AN ACTION IN A COURT OF GENERAL  
25 JURISDICTION TO CHALLENGE AN OCCUPATIONAL REGULATION.

26 B. TO PREVAIL IN AN ACTION CHALLENGING THE OCCUPATIONAL REGULATION,  
27 THE COURT MUST FIND BY A PREPONDERANCE OF THE EVIDENCE THAT THE CHALLENGED  
28 OCCUPATIONAL REGULATION ON ITS FACE OR IN ITS EFFECT BURDENS THE ENTRY  
29 INTO OR PARTICIPATION IN AN OCCUPATION, TRADE OR PROFESSION AND THAT THIS  
30 STATE HAS FAILED TO PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT THE  
31 CHALLENGED OCCUPATIONAL REGULATION IS DEMONSTRATED TO BE NECESSARY TO  
32 SPECIFICALLY FULFILL A PUBLIC HEALTH, SAFETY OR WELFARE CONCERN.

33 C. IF THE COURT FINDS FOR THE PLAINTIFF, THE COURT SHALL ENJOIN  
34 FURTHER ENFORCEMENT OF THE CHALLENGED OCCUPATIONAL REGULATION AND SHALL  
35 AWARD REASONABLE ATTORNEY FEES AND COSTS TO THE PLAINTIFF.

36 Sec. 6. Legislative findings; intent

37 The legislature finds and declares that:

38 1. The right of individuals to pursue a chosen business or  
39 profession, free from arbitrary or excessive government interference, is a  
40 fundamental civil right.

41 2. The courts should apply heightened judicial scrutiny to cases  
42 involving occupational licenses and the right to earn a living.

1           Sec. 7. Severability

2           If a provision of this act or its application to any person or  
3           circumstance is held invalid, the invalidity does not affect other  
4           provisions or applications of the act that can be given effect without the  
5           invalid provision or application, and to this end the provisions of this  
6           act are severable.

7           Sec. 8. Short title

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

APPROVED BY THE GOVERNOR APRIL 5, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2017.