



ARIZONA STATE SENATE
Fifty-Fourth Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1142

nonhealth professions; occupations; regulations.

Purpose

Modifies criteria for the regulation of nonhealth professions and occupations and adds requirements for legislative committees of reference (CORs). Defines terms relating to professional and occupational regulation.

Background

To practice or perform a regulated profession or occupation in Arizona, a person must meet certain qualifications and apply to the designated board or agency for the license, certificate or authorization. The laws and rules regarding qualifications, applications, renewal and expiration of each authorization to practice vary across the professions and occupations ([A.R.S. Title 32](#)).

The state may only regulate a nonhealth profession or occupation if: 1) the unregulated practice can clearly harm or endanger public health, safety or welfare; 2) actual or anticipated public benefit clearly exceeds the costs the regulation imposes on consumers, businesses and individuals; 3) the public needs and is expected to benefit from an assurance of professional ability; and 4) private certification or other alternatives cannot effectively protect the public.

A COR must review proposed legislation to regulate a nonhealth profession or occupation for the first time according to the outlined criteria (nonhealth sunrise review). If the COR finds regulating a profession or occupation necessary, regulation must be in the least restrictive manner and not imposed to protect a discrete interest group from economic competition ([A.R.S. § 32-4401](#)). CORs also evaluate the need to continue the existence of a state agency according to outlined factors (sunset review) and must recommend continuing, revising, consolidating or terminating the agency ([Title 41, Chapter 27](#)).

Title 32 of the Arizona Revised Statutes contains statute relating to [Professions and Occupations](#). Title 41 of the Arizona Revised Statutes contains statute relating to [State Government](#).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Regulation of Nonhealth Professions and Occupations

1. Modifies criteria for state regulation of a nonhealth profession or occupation to require:
 - a) credible evidence of harm that the unregulated practice threatens public health, safety or welfare, rather than that the unregulated practice can clearly harm or endanger public health, safety or welfare;

- b) that the public needs and is expected to benefit from government regulation, rather than from the assurance of initial and continuing professional ability; and
 - c) that the public cannot be protected from less restrictive regulations as outlined, rather than from private certification or other alternatives.
2. Prohibits the regulation of a profession or occupation for the exclusive purpose of protecting a profession or occupation, rather than a discrete interest group, from economic competition.

Sunrise Reviews

3. Requires a COR conducting a nonhealth sunrise review to provide findings and recommendations to the standing committee to which proposed legislation is assigned that address:
- a) the appropriate type of regulations, if any, according to the statutory criteria;
 - b) the appropriate scope of practice and personal qualifications for a government certification or occupational or professional license, if applicable; and
 - c) the extent to which failure to regulate a profession or occupation will result in the loss of insurance, an impact to a required federal license or registration, an impact to the ability to practice in other states or as required by federal law and the loss of constitutionally afforded practices.
4. Allows the COR, in review of initial regulation criteria, to request information from state agencies that contract with regulated individuals and others with knowledge of the occupation or labor-market economics.
5. Specifies that the criteria for state regulation and least restrictive manner requirement do not preempt federal regulations or require a private certification organization to grant or deny certification.
6. Removes a list of specified forms of evidence of actual harm that may be reviewed by a COR in determining initial regulation.

Sunset Reviews

7. Requires a COR conducting a sunset review of any agency to consider an agency's ability to timely investigate complaints within its jurisdiction.
8. Allows a COR conducting a sunset review of any agency to make more than one of the statutorily outlined recommendations.
9. Requires a COR conducting a sunset review of an agency that administers an occupational regulation to consider the extent to which:
- a) the regulation is in the least restrictive manner and meets criteria for state regulation; and
 - b) failure to regulate a profession or occupation will result in the loss of insurance, an impact to a required federal license or registration, an impact to the ability to practice in other states or as required by federal law and the loss of constitutionally afforded practices.

10. Allows a COR conducting a sunset review of an agency that administers an occupational regulation, to recommend that the Legislature:
 - a) repeal the occupational or professional license;
 - b) convert the occupational or professional license to a less restrictive regulation; and
 - c) instruct the agency to seek legislation or adopt rules to reflect the COR's recommendations to impose less restrictive regulations, change requisite personal qualifications or redefine the scope of practice of an occupational or professional license.

Definitions

11. Defines *less restrictive regulation*, from least to most restrictive, as:
 - a) nongovernment regulation, including private certification, deceptive trade practice laws and mandatory disclosure of specific good or service attributes;
 - b) regulation of the facility where the specific good or service is sold;
 - c) inspection regulations;
 - d) bonding requirements;
 - e) insurance requirements;
 - f) government registration;
 - g) government certification; and
 - h) occupational or professional license.
12. Defines *occupational or professional license, government certification, government registration, occupational regulation, lawful occupation, personal qualifications and private certification*.

Miscellaneous

13. Transfers, from Title 32 to Title 41 of the Arizona Revised Statutes, statute governing the regulation of nonhealth professions and occupations.
14. Makes technical and conforming changes.
15. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Requires a COR conducting a sunset review to consider an agency's ability to timely investigate complaints within its jurisdiction and allows the COR to make more than one of the statutorily outlined recommendations.
2. Removes the rebuttable presumption that the public is protected from unregulated practice by market competition and private remedies, including third-party or consumer-created reviews and private certification.
3. Requires a COR conducting a nonhealth sunrise review or a sunset review of an agency that administers an occupational regulation to consider the extent to which the failure to regulate a profession or occupation will result in outlined consequences.
4. Modifies criteria for state regulation of a nonhealth profession or occupation.

5. Replaces methods of *less restrictive regulation*.
6. Removes the delineation of persons authorized to use designated titles.

Amendments Adopted by Committee of the Whole

- Includes deceptive trade practice laws, rather than deceptive trade practices, in the definition of *less restrictive regulation*.

Senate Action

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Prepared by Senate Research

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LB/gs