

COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2599
(Reference to printed bill)

1 Page 4, between lines 7 and 8, insert:

2 "Sec. 2. Section 32-4302, Arizona Revised Statutes, is amended to
3 read:

4 32-4302. Out-of-state applicants; residents; military spouses;
5 licensure; certification; exceptions; notice

6 A. Notwithstanding any other law, an occupational or professional
7 license or certificate shall be issued, in the discipline applied for and
8 at the same practice level as determined by the regulating entity, pursuant
9 to this title to a person who establishes residence in this state or
10 without an examination to a person who is married to an active duty member
11 of the armed forces of the United States and who is accompanying the member
12 to an official permanent change of station to a military installation
13 located in this state if all of the following apply:

14 1. The person is currently licensed or certified in at least one
15 other state in the discipline applied for and at the same practice level as
16 determined by the regulating entity and the license or certification is in
17 good standing in all states in which the person holds a license or
18 certification.

19 2. The person has been licensed or certified by another state for at
20 least one year.

21 3. When the person was licensed or certified by another state there
22 were minimum education requirements and, if applicable, work experience and
23 clinical supervision requirements in effect and the other state verifies
24 that the person met those requirements in order to be licensed or certified
25 in that state.

1 4. The person previously passed an examination required for the
2 license or certification if required by the other state.

3 5. The person has not had a license or certificate revoked and has
4 not voluntarily surrendered a license or certificate in any other state or
5 country while under investigation for unprofessional conduct.

6 6. The person has not had discipline imposed by any other regulating
7 entity. If another jurisdiction has taken disciplinary action against the
8 person, the regulating entity shall determine if the cause for the action
9 was corrected and the matter resolved. If the matter has not been resolved
10 by that jurisdiction, the regulating entity may not issue or deny a license
11 until the matter is resolved.

12 7. The person does not have a complaint, allegation or investigation
13 pending before another regulating entity in another state or country that
14 relates to unprofessional conduct. If an applicant has any complaints,
15 allegations or investigations pending, the regulating entity in this state
16 shall suspend the application process and may not issue or deny a license
17 to the applicant until the complaint, allegation or investigation is
18 resolved.

19 8. The person pays all applicable fees.

20 9. The person does not have a disqualifying criminal history as
21 determined by the regulating entity pursuant to section 41-1093.04.

22 B. This section does not prevent a regulating entity under this
23 title from entering into a reciprocity agreement with another state or
24 jurisdiction for persons married to active duty members of the armed forces
25 of the United States, except that the agreement may not allow out-of-state
26 licensees or certificate holders to obtain a license or certificate by
27 reciprocity in this state if the applicant has not met standards that are
28 substantially equivalent to or greater than the standards required in this
29 state as determined by the regulating entity on a case-by-case basis.

30 C. Except as provided in subsection A of this section, a regulating
31 entity that administers an examination on laws of this state as part of its
32 license or certificate application requirement may require an applicant to
33 take and pass an examination specific to the laws of this state.

1 D. A person who is licensed pursuant to this title is subject to the
2 laws regulating the person's practice in this state and is subject to the
3 regulating entity's jurisdiction.

4 E. This section does not apply to:

5 1. A license or registration certificate that is issued pursuant to
6 chapter 24 or 26 of this title.

7 2. Requirements for a fingerprint clearance card issued pursuant to
8 title 41, chapter 12, article 3.1.

9 3. Criteria for a license, permit or certificate of eligibility that
10 is established by an interstate compact.

11 4. The ability of a regulating entity under this title to require an
12 applicant to submit fingerprints in order to access state and federal
13 criminal records information for noncriminal justice purposes.

14 F. A license or certificate issued pursuant to this section is valid
15 only in this state and does not make the person eligible to be part of an
16 interstate compact. A regulating entity under this title may determine
17 eligibility for an applicant to be licensed or certified under this section
18 if the applicant is not part of an interstate compact.

19 G. A regulating entity under this title shall prominently print the
20 following notice on all license and certificate applications and regulating
21 entity websites:

22 Pursuant to section 32-4302, Arizona Revised Statutes, a person shall
23 be granted an occupational or professional license or certificate if the
24 person has been licensed or certified in another state for at least twelve
25 months, the license or certificate is in the same discipline and at the
26 same practice level as the license or certificate for which the person is
27 applying in this state and the person meets other conditions prescribed by
28 section 32-4302, Arizona Revised Statutes.

29 H. BEFORE ANY REGULATING ENTITY TAKES ANY OFFICIAL ACTION TO DENY A
30 PROFESSIONAL OR OCCUPATIONAL LICENSE THAT A PERSON APPLIES FOR PURSUANT TO
31 THIS SECTION, THE REGULATING ENTITY SHALL SUBMIT THE APPLICATION AND THE
32 REASON FOR DENIAL TO THE GOVERNOR FOR REVIEW. THE REGULATING ENTITY SHALL

1 NOTIFY THE GOVERNOR OF ANY REQUIRED TIME FRAMES FOR APPROVAL OR DENIAL OF
2 THE LICENSE APPLICATION BY THE REGULATING ENTITY.

3 I. BEGINNING JULY 1, 2022, ALL REGULATING ENTITIES THAT ARE REQUIRED
4 TO ISSUE OCCUPATIONAL OR PROFESSIONAL LICENSES PURSUANT TO THIS SECTION
5 SHALL TRACK INFORMATION ABOUT APPLICATIONS RECEIVED IN THE FORMAT TO BE
6 DETERMINED BY THE GOVERNOR AND ANNUALLY REPORT THAT INFORMATION TO THE
7 GOVERNOR.

8 J. FOR THE PURPOSES OF SUBSECTIONS H AND I OF THIS SECTION,
9 "REGULATING ENTITY":

10 1. MEANS ALL EXECUTIVE DEPARTMENTS, AGENCIES AND OFFICES AND ALL
11 STATE BOARDS AND COMMISSIONS.

12 2. DOES NOT INCLUDE:

13 (a) A STATE AGENCY THAT IS HEADED BY A SINGLE ELECTED STATE
14 OFFICIAL.

15 (b) THE CORPORATION COMMISSION.

16 (c) ANY BOARD OR COMMISSION ESTABLISHED BY BALLOT MEASURE AT OR
17 AFTER THE NOVEMBER 1998 GENERAL ELECTION.

18 Sec. 3. Title 32, chapter 43, article 1, Arizona Revised Statutes,
19 is amended by adding section 32-4304, to read:

20 32-4304. Occupational and professional licenses; websites;
21 reporting; definition

22 A. A REGULATING ENTITY THAT ISSUES OCCUPATIONAL OR PROFESSIONAL
23 LICENSES SHALL:

24 1. PROMINENTLY POST ON ITS WEBSITE HOME PAGE ALL CURRENT STATE
25 POLICIES THAT EASE LICENSING BURDENS AND THE EXACT STEPS APPLICANTS MUST
26 COMPLETE TO RECEIVE THEIR LICENSE USING SUCH POLICIES. POLICIES THAT EASE
27 LICENSING BURDENS INCLUDE THE FOLLOWING:

28 (a) UNIVERSAL RECOGNITION OF OUT-OF-STATE LICENSES.

29 (b) AVAILABILITY OF TEMPORARY LICENSES.

30 (c) FEE WAIVERS.

31 (d) EXAMINATION EXEMPTIONS.

32 (e) ALLOWING AN APPLICANT TO SUBSTITUTE MILITARY EDUCATION OR
33 EXPERIENCE FOR LICENSING REQUIREMENTS.

1 2. HAVE A DESIGNATED AREA ON ITS WEBSITE HOME PAGE THAT INCLUDES
2 LICENSING INFORMATION SPECIFICALLY FOR MILITARY SPOUSES, ACTIVE DUTY
3 SERVICE MEMBERS AND VETERANS AND ALL POLICIES THAT MAKE IT EASIER FOR THE
4 APPLICANT GROUPS TO RECEIVE A LICENSE.

5 3. DISPLAY ALL INFORMATION REQUIRED BY PARAGRAPHS 1 AND 2 OF THIS
6 SUBSECTION IN A LOCATION THAT IS EASY TO LOCATE AND SHALL USE LANGUAGE THAT
7 IS CLEAR AND CONCISE. A WEBSITE HOME PAGE FEATURE MAY LINK TO AN INTERNAL
8 WEBPAGE WITH MORE INFORMATION IF A REGULATING ENTITY DEEMS IT NECESSARY.

9 4. BEGINNING JULY 1, 2022, TRACK WHETHER EACH APPLICANT IS A VETERAN
10 OR MILITARY SPOUSE AND SHALL ANNUALLY REPORT THE INFORMATION GATHERED
11 PURSUANT TO THIS PARAGRAPH TO THE GOVERNOR.

12 B. FOR THE PURPOSES OF THIS SECTION, "REGULATING ENTITY":

13 1. MEANS ALL EXECUTIVE DEPARTMENTS, AGENCIES AND OFFICES AND ALL
14 STATE BOARDS AND COMMISSIONS.

15 2. DOES NOT INCLUDE:

16 (a) A STATE AGENCY THAT IS HEADED BY A SINGLE ELECTED STATE
17 OFFICIAL.

18 (b) THE CORPORATION COMMISSION.

19 (c) ANY BOARD OR COMMISSION ESTABLISHED BY BALLOT MEASURE AT OR
20 AFTER THE NOVEMBER 1998 GENERAL ELECTION."

21 Renumber to conform

22 Page 5, line 18, after the first comma insert "OFFER TO"; strike "ON-SITE"

23 Line 19, strike "POSITIVE AND NEGATIVE"

24 Page 6, strike line 37

25 Line 38, strike "3. THE SAME" insert:

26 "3. Evidence of a pattern of noncompliance AS DEMONSTRATED BY"

27 Line 39, after "SAME" strike remainder of line

28 Line 40, strike "LAST TWO YEARS" insert "PREMISES"

29 Line 41, strike "IMPACT" insert "RISK"

1 Page 7, strike lines 30 through 37, insert:

2 "K. For agencies with authority under title 49, if, as a result of
3 an inspection or any other investigation, an agency alleges that a
4 regulated person is not in compliance with licensure or other applicable
5 regulatory requirements, the agency shall provide written notice of that
6 allegation to the regulated person. The notice shall contain the following
7 information:"

8 Page 8, line 2, strike "KNOWN AT THE TIME OF INSPECTION"

9 Line 5, after "agency" insert a period strike the remainder of line

10 Strike lines 6 and 7

11 Line 13, strike "~~a notice~~ AN INSPECTION REPORT" insert "a notice"

12 Page 13, between lines 19 and 20, insert:

13 "Sec. 8. Title 41, chapter 6, article 3, Arizona Revised Statutes,
14 is amended by adding section 41-1039, to read:

15 41-1039. State agency rulemaking; governor approval;
16 submission; definition

17 A. NOTWITHSTANDING ANY OTHER LAW, A STATE AGENCY MAY NOT CONDUCT ANY
18 RULEMAKING, INCLUDING REGULAR, EXPEDITED, INFORMAL, FORMAL, EMERGENCY OR
19 EXEMPT RULEMAKING, WITHOUT PRIOR WRITTEN APPROVAL OF THE GOVERNOR. IN
20 SEEKING APPROVAL, A STATE AGENCY SHALL ADDRESS ANY OF THE FOLLOWING AS
21 JUSTIFICATION FOR THE RULEMAKING:

22 1. FULFILLING AN OBJECTIVE RELATED TO JOB CREATION, ECONOMIC
23 DEVELOPMENT OR ECONOMIC EXPANSION IN THIS STATE.

24 2. REDUCING OR AMELIORATING A REGULATORY BURDEN ON THE PUBLIC, WHILE
25 ACHIEVING THE SAME REGULATORY OBJECTIVE.

26 3. PREVENTING A SIGNIFICANT THREAT TO PUBLIC HEALTH, PEACE OR
27 SAFETY.

28 4. AVOIDING VIOLATING A COURT ORDER OR FEDERAL LAW THAT WOULD RESULT
29 IN SANCTIONS BY A FEDERAL COURT FOR FAILURE TO CONDUCT THE RULEMAKING
30 ACTION.

31 5. COMPLYING WITH A NEW STATE STATUTORY OR REGULATORY REQUIREMENT IF
32 THE COMPLIANCE IS RELATED TO A CONDITION FOR THE RECEIVING FEDERAL MONIES
33 OR PARTICIPATING IN ANY FEDERAL PROGRAM.

1 6. COMPLYING WITH A NEW STATE STATUTORY REQUIREMENT.

2 7. FULFILLING AN OBLIGATION RELATED TO FEES OR ANY OTHER ACTION
3 NECESSARY TO IMPLEMENT THE STATE BUDGET THAT IS CERTIFIED BY THE GOVERNOR'S
4 OFFICE OF STRATEGIC PLANNING AND BUDGETING.

5 8. ADOPTING A RULE OR OTHER ITEM THAT IS EXEMPT FROM THIS CHAPTER.

6 9. MATTERS PERTAINING TO THE CONTROL, MITIGATION OR ERADICATION OF
7 WASTE, FRAUD OR ABUSE WITHIN A STATE AGENCY OR WASTEFUL, FRAUDULENT OR
8 ABUSIVE ACTIVITIES PERPETRATED AGAINST A STATE AGENCY.

9 10. ELIMINATING RULES THAT ARE ANTIQUATED, REDUNDANT OR OTHERWISE NO
10 LONGER NECESSARY FOR THE OPERATION OF STATE GOVERNMENT.

11 B. AFTER THE PUBLIC COMMENT PERIOD AND THE CLOSE OF THE RULEMAKING
12 RECORD, A STATE AGENCY MAY NOT SUBMIT THE PROPOSED RULES TO THE COUNCIL
13 WITHOUT A WRITTEN FINAL APPROVAL FROM THE GOVERNOR. BEFORE CONSIDERING
14 RULES SUBMITTED BY A STATE AGENCY, THE COUNCIL MUST OBTAIN FROM THE STATE
15 AGENCY THE INITIAL APPROVAL PURSUANT TO SUBSECTION A OF THE SECTION AND THE
16 FINAL APPROVAL REQUIRED BY THIS SUBSECTION.

17 C. NOTWITHSTANDING ANY OTHER LAW, A STATE AGENCY THAT SUBMITS A
18 RULEMAKING REQUEST SHALL RECOMMEND FOR CONSIDERATION BY THE GOVERNOR AT
19 LEAST THREE EXISTING RULES TO ELIMINATE FOR EVERY ADDITIONAL RULE REQUESTED
20 BY THE STATE AGENCY.

21 D. A STATE AGENCY MAY NOT PUBLICIZE ANY DIRECTIVES, POLICY
22 STATEMENTS, DOCUMENTS OR FORMS ON ITS WEBSITE UNLESS THE DIRECTIVE, POLICY
23 STATEMENT, DOCUMENT OR FORM IS EXPLICITLY AUTHORIZED BY STATUTE OR RULE. A
24 STATE AGENCY SHALL REMOVE MATERIAL NOT SPECIFICALLY AUTHORIZED BY STATUTE
25 OR RULE FROM ITS WEBSITE ON THE EFFECTIVE DATE OF THIS SECTION.

26 E. FOR THE PURPOSES OF THIS SECTION, "STATE AGENCY":

27 1. INCLUDES ALL EXECUTIVE DEPARTMENTS, AGENCIES AND OFFICES AND ALL
28 STATE BOARDS AND COMMISSIONS.

29 2. DOES NOT INCLUDE:

30 (a) A STATE AGENCY THAT IS HEADED BY A SINGLE ELECTED STATE
31 OFFICIAL.

32 (b) THE CORPORATION COMMISSION.

1 (c) ANY BOARD OR COMMISSION ESTABLISHED BY BALLOT MEASURE AT OR
2 AFTER THE NOVEMBER 1998 GENERAL ELECTION."

3 Renumber to conform

4 Page 16, line 10, after "F" insert a period strike remainder of line

5 Strike lines 11 through 14

6 Page 20, line 27, after the comma insert "AND EXCEPT FOR A LICENSING DECISION
7 WHERE THE AGENCY, EXECUTIVE DIRECTOR, BOARD OR COMMISSION HAS DETERMINED
8 THAT THE LICENSEE POSES A THREAT OF GRAVE HARM OR DANGER TO THE PUBLIC OR
9 HAS ACTED WITH COMPLETE DISREGARD FOR THE WELL-BEING OF THE PUBLIC IN
10 ENGAGING OR IN BEING ALLOWED TO ENGAGE IN THE LICENSEE'S REGULATED BUSINESS
11 ACTIVITY,"

12 Page 21, strike lines 3 through 44

13 Strike pages 22 through 25, insert:

14 "Sec. 13. Section 41-1092.12, Arizona Revised Statutes, is amended
15 to read:

16 41-1092.12. Private right of action; recovery of costs and
17 fees; definitions

18 A. If an agency takes an action against a party that is arbitrary,
19 capricious or not in accordance with law, the action is an appealable
20 agency action if all of the following apply:

21 1. Within ten days after RECEIVING NOTIFICATION OF the action that
22 is arbitrary, capricious or not in accordance with law, the party notifies
23 the director of the agency in writing of the party's intent to file a claim
24 pursuant to this section. This notice shall include a description of the
25 action the party claims to be arbitrary, capricious or not in accordance
26 with law and reasons why the action is arbitrary, capricious or not in
27 accordance with law.

28 2. The agency continues the action that is arbitrary, capricious or
29 not in accordance with law more than ten days after the agency receives the
30 notice.

31 3. The action is not excluded from the definition of appealable
32 agency action as defined in section 41-1092.

1 B. This section only applies if an administrative remedy or an
2 administrative or a judicial appeal of final agency action is not otherwise
3 provided by law.

4 C. If the party prevails, the agency shall pay reasonable costs and
5 fees to the party from any monies appropriated to the agency and available
6 for that purpose or from other operating monies of the agency. If the
7 agency fails or refuses to pay the award within fifteen days after the
8 demand, and if no further review or appeal of the award is pending, the
9 prevailing party may file a claim with the department of
10 administration. The department of administration shall pay the claim
11 within thirty days in the same manner as an uninsured property loss under
12 ~~title 41,~~ chapter 3.1, article 1 OF THIS TITLE, except that the agency is
13 responsible for the total amount awarded and shall pay it from its
14 operating monies. If the agency had appropriated monies available for
15 paying the award at the time it failed or refused to pay, the legislature
16 shall reduce the agency's operating appropriation for the following fiscal
17 year by the amount of the award and shall appropriate that amount to the
18 department of administration as reimbursement for the loss.

19 D. If the administrative law judge determines that the appealable
20 agency action is frivolous, the administrative law judge may require the
21 party to pay reasonable costs and fees to the agency in responding to the
22 appeal filed before the office of administrative hearings.

23 E. NOTWITHSTANDING ANY OTHER LAW, A LICENSEE MAY FORGO AN
24 ADMINISTRATIVE APPEAL AND SEEK JUDICIAL REVIEW OF AN AGENCY'S GRANT,
25 DENIAL, MODIFICATION OR REVOCATION OF A PERMIT ISSUED PURSUANT TO TITLE 49.

26 ~~E.~~ F. For the purposes of this section:

27 1. "Action against the party" means any of the following that
28 results in the expenditure of costs and fees:

- 29 (a) A decision.
- 30 (b) An inspection.
- 31 (c) An investigation.
- 32 (d) The entry of private property.
- 33 (e) A NOTICE OF VIOLATION.

1 2. "Agency" means the department of environmental quality
2 established pursuant to title 49, chapter 1, article 1.

3 3. "Costs and fees" means reasonable attorney and professional fees.

4 4. "NOTICE OF VIOLATION" MEANS A WRITTEN NOTICE ISSUED AFTER AN
5 INSPECTION OR INVESTIGATION PURSUANT TO SECTION 41-1009 THAT DOCUMENTS AND
6 COMMUNICATES AN ALLEGED DEFICIENCY MEETING ONE OR MORE OF THE CRITERIA
7 LISTED IN SECTION 41-1009, SUBSECTION E.

8 ~~4.~~ 5. "Party" means an individual, partnership, corporation,
9 association and public or private organization at whom the action was
10 directed and who has expended costs and fees as a result of the action
11 against the party."

12 Amend title to conform

And, as so amended, it do pass

JEFF WENINGER
CHAIRMAN

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