



2019 SENATE BILL 541

October 31, 2019 - Introduced by Senators KAPENGA, CRAIG, DARLING, KOOYENGA, STROEBEL and L. TAYLOR, cosponsored by Representatives HUTTON, DITTRICH, GUNDRUM, HORLACHER, KNODL, KULP, MURPHY, NOVAK, SKOWRONSKI, SORTWELL, TUSLER and THIESFELDT. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1 **AN ACT to create** 13.0963 of the statutes; **relating to:** reports on bills requiring
2 occupational licenses.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Safety and Professional Services to prepare a report containing certain information on any bill that is introduced in the legislature that requires an individual to obtain a license in order to engage in a particular profession or occupation or that requires that a license be obtained in order for a particular type of business to be owned or operated. The Legislative Reference Bureau must submit any bill to which the requirement applies to DSPPS, and the report must be distributed before certain actions are taken on the bill in the legislature.

Under the bill, the report prepared by DSPPS must include, among other information, all of the following: 1) an evaluation of the potential for the unregulated practice of the profession or occupation to harm the public; 2) an evaluation of whether the public can reasonably be expected to benefit from requiring the profession or occupation to be licensed; 3) an evaluation of what is the least restrictive regulation, as defined in the bill, of the profession or occupation that would effectively protect the public; 4) an analysis of licensure requirements for the profession or occupation in other states; and 5) an estimate of the total additional financial burden that will be imposed on an individual or business involved in the profession or occupation as a result of the license requirement.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.0963 of the statutes is created to read:

2 **13.0963 Review of bills creating occupational licenses. (1) DEFINITIONS.**

3 (a) In this section, “agency” has the meaning given in s. 13.172 (1).

4 (b) In subs. (2) and (3), “license” includes any permit, certificate, approval,
5 registration, charter, or similar form of permission.

6 **(2) REPORT ON BILLS CREATING OCCUPATIONAL LICENSES.** (a) If any bill that is
7 introduced in either house of the legislature creates a requirement that an individual
8 obtain a license in order to engage in a particular profession or occupation or a
9 requirement that a license be obtained in order for a particular type of business to
10 be owned or operated, the department of safety and professional services shall
11 prepare and issue an occupational license report on the bill within 30 business days
12 after it is introduced. The department shall request information from any individual
13 or business that the department considers likely to be affected by the proposed
14 licensure requirement and, if a different agency would be required to administer the
15 licensure requirement, the department shall request a statement or analysis from
16 that agency. Individuals, businesses, and agencies shall comply with requests by the
17 department for information that is reasonably necessary for the department to
18 prepare the report. To the greatest extent possible, reports under this section shall
19 be based on the information obtained by the department from individuals,
20 businesses, and agencies under this paragraph.

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1 (b) A bill that requires a report by the department of safety and professional
2 services under this section shall have that requirement noted on its jacket when the
3 jacket is prepared. When a bill that requires a report under this section is
4 introduced, the legislative reference bureau shall submit a copy of the bill to the
5 department of safety and professional services.

6 (c) The report prepared under this section shall be printed as an appendix to
7 the applicable bill and shall be distributed in the same manner as amendments. The
8 report shall be distributed before any vote is taken on the bill by either house of the
9 legislature if the bill is not referred to a standing committee, or before any public
10 hearing is held before any standing committee or, if no public hearing is held, before
11 any vote is taken by the committee. The department of safety and professional
12 services shall also publish the report on its Internet site.

13 **(3) FINDINGS TO BE CONTAINED IN THE REPORT.** The department of safety and
14 professional services shall include all of the following in a report prepared under sub.
15 (2):

16 (a) An evaluation of whether the unregulated practice of the profession,
17 occupation, or business can clearly harm or endanger the health, safety, or welfare
18 of the public, and whether the potential for the harm is recognizable and not remote
19 or speculative.

20 (b) An evaluation of whether the public can reasonably be expected to benefit
21 from the requirement for the license.

22 (c) An evaluation of what the least restrictive regulation is that will effectively
23 protect the public, as determined under sub. (4).

24 (d) An analysis of licensure requirements for that profession, occupation, or
25 business in other states, including educational and reciprocity requirements.

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1 (e) An estimate of the number of individuals or businesses that would be
2 affected by the requirement.

3 (f) An estimate of the total additional financial burden that will be imposed on
4 an individual or business as a result of the licensure requirement, including
5 education or training costs, examination fees, private credential fees, credential fees
6 imposed by the agency, and other costs that the individual or business will have to
7 incur in order to obtain the license.

8 (g) Any statement or analysis from the department or the agency that would
9 administer the licensure requirement.

10 **(4) DETERMINATION OF LEAST RESTRICTIVE REGULATION.** (a) In this subsection:

11 1. "Certification" means a voluntary program to which all of the following
12 apply:

13 a. A private organization or the state grants a nontransferable recognition to
14 an individual who meets certain personal qualifications established by the private
15 organization or by law.

16 b. Upon approval, the individual may use "certified" as a designated title.

17 c. A noncertified individual may perform the occupation for compensation but
18 may not use the title "certified."

19 2. "Occupational license" means a program to which all of the following apply:

20 a. The state grants a nontransferable authorization to an individual who meets
21 certain personal qualifications established by law in order to perform an occupation
22 for compensation.

23 b. It is unlawful for an individual who does not possess the requisite
24 authorization to perform the occupation for compensation.

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1 3. “Personal qualifications” means criteria related to an individual’s personal
2 background and characteristics, including completion of an approved educational
3 program, satisfactory performance on an examination, work experience, other
4 evidence of attainment of requisite skills or knowledge, moral standing, criminal
5 history, and completion of continuing education.

6 4. “Registration” means a program to which all of the following apply:

7 a. It requires an individual to provide notice to the state that may include the
8 individual’s name and address, the individual’s agent for service of process, the
9 location of the activity to be performed, and a description of the service the individual
10 provides.

11 b. It does not require certain personal qualifications to be satisfied, but may
12 require a bond or insurance.

13 c. Upon registering, the individual may use “registered” as a designated title.

14 d. A nonregistered individual may not perform the occupation for
15 compensation or use “registered” as a designated title.

16 (b) For purposes of sub. (3) (c), “least restrictive regulation” means one of the
17 following, from least restrictive to most restrictive:

18 1. Market competition.

19 2. Third-party or consumer-created ratings and reviews.

20 3. Private certification.

21 4. A specific private civil cause of action to remedy consumer harm.

22 5. The designation of an unfair trade practice or method of competition in
23 business.

24 6. The regulation of the process of providing the specific goods or services to
25 consumers.

