

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H2/28/19

A Bill

HOUSE BILL 1527

5 By: Representatives Cozart, Womack, Burch, Lynch, Nicks
6 By: Senators J. Cooper, T. Garner
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE RED TAPE REDUCTION SUNRISE AND
10 SUNSET ACT OF 2019; TO REQUIRE LEGISLATIVE REVIEW OF
11 OCCUPATIONAL AUTHORIZATIONS AND OCCUPATIONAL
12 ENTITIES; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO CREATE THE RED TAPE REDUCTION SUNRISE
16 AND SUNSET ACT OF 2019; AND TO REQUIRE
17 LEGISLATIVE REVIEW OF OCCUPATIONAL
18 AUTHORIZATIONS AND OCCUPATIONAL ENTITIES.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. DO NOT CODIFY. Title.

25 This act shall be known and may be cited as the "Red Tape Reduction
26 Sunrise and Sunset Act of 2019".
27

28 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

29 (a) The General Assembly finds that:

30 (1) Arkansas is taking a leading role in the nationwide pursuit
31 of reforms to the system of occupational licensing;

32 (2) Arkansas became one (1) of eleven (11) states chosen to
33 participate in the Occupational Licensing Policy Learning Consortium, an
34 initiative funded by a grant from the United States Department of Labor and
35 supported in partnership with the National Conference of State Legislatures,
36 the Council of State Governments, and the National Governors Association;



1 (3) Governor Asa Hutchinson appointed seventeen (17) individuals
2 to the Red Tape Reduction Working Group to review and address occupational
3 licensing regulations that create unnecessary barriers to labor market entry;
4 and

5 (4) The Red Tape Reduction Working Group issued a final report
6 to the Governor in the fall of 2018 with five (5) recommendations for
7 substantive legislative reform, which are to:

8 (A) Establish an expedited procedure for occupational
9 entities to collectively submit administrative rules that are responsive to
10 new legislation;

11 (B) Extend Acts 2017, No. 781, to allow repeal of
12 subsections of rules;

13 (C) Establish provisions to allow certain agencies to
14 consider occupational relevance with regard to criminal background issues;

15 (D) Authorize occupational entities to identify types of
16 individuals or entities that may be issued temporary or provisional licenses;
17 and

18 (E) Establish a systematic process for review of:

19 (i) New occupational authorization and occupational
20 entities; and

21 (ii) Existing occupational authorization and
22 occupational entities.

23 (b) It is the intent of the General Assembly to establish a systematic
24 process for review of:

25 (1) New occupational authorization and occupational entities;
26 and

27 (2) Existing occupational authorization and occupational
28 entities.

29
30 SECTION 3. Arkansas Code Title 10, Chapter 3, Subchapter 3, is amended
31 to add an additional section to read as follows:

32 10-3-318. Review of occupational authorizations and occupational
33 entities – Findings and intent.

34 (a) The General Assembly finds and determines that it is in the best
35 interest of this state to conduct a periodic comprehensive review of all
36 occupational authorizations and the occupational entities that issue them.

1 (b) It is the intent of the General Assembly to determine and
2 implement the least restrictive form of occupational authorization to protect
3 consumers from significant and substantiated harms to public health and
4 safety.

5 (c) As used in this section:

6 (1) "Occupational authorization" means a license, government-
7 required certificate, registration, permit, or other form of authorization
8 required by law or rule that is required for an individual to engage in a
9 particular occupation or profession; and

10 (2) "Occupational entity" means an office, board, commission,
11 department, council, bureau, or other agency of state government having
12 authority to establish or issue an occupational authorization.

13 (d)(1) The Legislative Council shall:

14 (A)(i) Review each occupational authorization and each
15 occupational entity on an annual rotating basis to determine if the existing
16 occupational authorization or occupational entity, or both, is consistent
17 with the intent described in subsection (b) of this section.

18 (ii)(a) The occupational authorizations and the
19 occupational entities shall be divided into six (6) groups to be determined
20 by the Legislative Council.

21 (b) The Legislative Council shall review one
22 (1) group each year.

23 (iii) However, an occupational authorization or
24 occupational entity may be reviewed out of the rotating basis if a member of
25 the General Assembly makes a formal request to the Legislative Council and
26 the cochaIRS of the Legislative Council approve the request.

27 (iv) After all groups have been reviewed one (1)
28 time, the Legislative Council shall continue to review the groups as
29 described in this section;

30 (B)(i) Analyze whether consumers are sufficiently
31 protected by competition, public knowledge of the reputations of occupational
32 practitioners, private ratings and reviews, private certification, voluntary
33 bonding, and voluntary insurance.

34 (ii) If the Legislative Council finds substantiated
35 evidence showing that the competition and private actions described in
36 subdivision (d)(1)(B)(i) of this section provides for insufficient protection

1 from significant harm, the Legislative Council shall use the following
2 guidelines in the Legislative Council's review:

3 (a) The effects of the existing occupational
4 authorization and any proposed occupational reform on opportunities for
5 workers, consumer choices, consumer costs, general unemployment, market
6 competition, government costs, and any other effects deemed relevant;

7 (b) Whether the occupational authorization and
8 any proposed occupational reform employs the least restrictive form of
9 occupational authorization to protect consumers from significant and
10 substantiated harm to public health and safety;

11 (c) If and to what degree existing
12 occupational regulation and any proposed occupational reform delegate
13 administrative rules promulgation to an occupational entity concerning the
14 establishment of the following:

15 (1) The scope of practice for the
16 occupation or profession; or

17 (2) The qualifications for the
18 occupational authorization; and

19 (d) Whether a significant and substantiated
20 exposure to antitrust litigation under any existing occupational regulation
21 and under any proposed occupational reform exists; and

22 (C)(i) Make recommendations to the Speaker of the House of
23 Representatives and the President Pro Tempore of the Senate regarding:

24 (a) The repeal of an occupational
25 authorization;

26 (b) The conversion of an occupational
27 authorization to a less restrictive occupational authorization;

28 (c) The promulgation of revised rules
29 reflecting the use of less restrictive occupational authorization consistent
30 with subsection (e) of this section;

31 (d) The modification of qualifications for an
32 occupational authorization;

33 (e) The modification or redefinition of the
34 scope of practice of an occupation or profession; or

35 (f) Any other relevant legislative reforms
36 deemed necessary.

1 (ii) However, the Legislative Council is not
2 required to recommend any legislative reform for any particular occupational
3 authorization or occupational entity.

4 (2) The Legislative Council may:

5 (A) Establish or utilize one (1) or more subcommittees to
6 assist in its duties under this section;

7 (B) Assign information filed with the Legislative Council
8 under this section to one (1) or more subcommittees of the Legislative
9 Council, including without limitation a subcommittee created under
10 subdivision (d)(2)(A) of this section; and

11 (C) Delegate its duties under this section to one (1) or
12 more subcommittees of the Legislative Council, subject to final review and
13 approval of the Legislative Council.

14 (3) If the Legislative Council determines that it is necessary,
15 the Legislative Council may contract with consultants to assist in the duties
16 assigned under this section or request the staff of Arkansas Legislative
17 Audit assist in the duties assigned under this section.

18 (e)(1) The Legislative Council shall analyze whether consumers can be
19 sufficiently protected by competition, the reputations of occupational
20 practitioners, private ratings and reviews, private certification, voluntary
21 bonding, and voluntary insurance.

22 (2) If the Legislative Council finds substantiated evidence of
23 significant harm arising from:

24 (A)(i) Contractual disputes, including pricing disputes,
25 the Legislative Council may recommend enacting legislation allowing lawsuits
26 in small claims court or district court to remedy a specific consumer harm.

27 (ii) A cause of action described in subdivision
28 (e)(2)(A)(i) of this section may provide for reimbursement of attorney's fees
29 or court costs if a consumer claim is successful;

30 (B) Fraud, the Legislative Council may recommend
31 legislation strengthening powers under the deceptive trade practices laws or
32 requiring disclosures to reduce misleading attributes of the specific good or
33 service;

34 (C) General health and safety, the Legislative Council may
35 recommend legislation enacting a law or rule that regulates the related
36 process or requiring a business license;

1 (D) Unclean facilities, the Legislative Council may
2 recommend legislation requiring periodic facility inspections;

3 (E) Failure of an occupational licensee to complete a
4 contract fully or comply with standards, the Legislative Council may
5 recommend legislation requiring the occupational licensee to be bonded;

6 (F) Lack of protection for a person who is not a party to
7 a contract between an occupational licensee and a consumer, the Legislative
8 Council may recommend legislation requiring the occupational licensee to have
9 insurance;

10 (G) Transactions with transient, out-of-state, or fly-by-
11 night occupational licensees, the Legislative Council may recommend
12 legislation requiring the occupational licensee to register the business with
13 the Secretary of State;

14 (H) Shortfalls or lack of knowledge about the good or
15 service among consumers relative to the occupational practitioner's
16 knowledge, the Legislative Council may recommend legislation enacting
17 government-required certification or other occupational authorization;

18 (I) Systematic information shortfall in which a reasonable
19 consumer of a service is permanently unable to distinguish between the
20 quality of occupational licensees and an absence of guidance to the consumers
21 exists, the Legislative Council may recommend legislation enacting or
22 maintaining an occupational authorization; or

23 (J) Multiple areas listed in subdivisions (e)(2)(A)
24 through (I) of this section, the Legislative Council may recommend
25 legislation with a combination of occupational authorization, including
26 regulation with a private remedy, third-party or consumer-created ratings and
27 reviews, or private certification.

28 (f) Under a timeline as determined by the Legislative Council, an
29 occupational entity shall:

30 (1)(A) File a report with the Governor and the Legislative
31 Council.

32 (B) The report shall include:

33 (i) The name of the occupation, the type of
34 regulation, and the scope of practice for each occupation that the
35 occupational entity regulates;

36 (ii) The amount of any fee or penalty associated

1 with each occupation;

2 (iii) The number of individuals regulated by the
3 occupational entity, grouped by occupational authorization;

4 (iv) A statement describing in what respects, if
5 any, each occupational authorization is required by state or federal law; and

6 (v) Any other relevant information as determined by
7 the Legislative Council;

8 (2) Appear at a public hearing before the Legislative Council to
9 discuss the report prepared by the occupational entity; and

10 (3) Provide any assistance requested to the Legislative Council
11 regarding the review of each occupational authorization.

12 (g) This section does not apply to occupational authorizations or
13 occupational entities that are not subject to the oversight or purview of the
14 General Assembly through the Arkansas Administrative Procedure Act, § 25-15-
15 201 et seq.

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17 */s/Cozart*

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20 **APPROVED: 3/29/19**

GROUP 1		
Entity	# of Licenses	Licenses Authorized
Acupuncture and Related Techniques, Arkansas State Board of	1	Acupuncturist
Auctioneers Licensing Board, Arkansas	1	Auctioneer
Bail Bondsman Licensing Board, Arkansas Professional	1	Bail Bondsman
Court Reporter Examiners, Arkansas Board of Certified	1	Certified Court Reporter
Environmental Quality, Arkansas Department of; Office of Air Quality; Asbestos Section	8	Asbestos Abatement Air Monitor, Asbestos Abatement Contractor/Consultant, Asbestos Abatement Contractor/ Supervisor, Asbestos Abatement Worker, Asbestos Inspector, Asbestos Management Planner, Asbestos Project Designer, Asbestos Training Provider
Fire Protection Licensing Board, Arkansas	6	Class A and B Hydrostatic Testing Technician, Fire Sprinkler Inspector, Fire Sprinkler Responsible Managing Employee (RME), Fixed Fire Protection System Technician, Portable Fire Extinguisher Technician, Sprinkler Fitter
Health, Arkansas Department of; Engineering Section	2	Water Distribution Operator, Water Treatment Operator
Health, Arkansas Department of; Radiation Control Section; Radiologic Technology Licensure Program	6	Cardiovascular Invasive Specialist (LSL)/Limited Specialty License, Licensed Technologist License (LTL), Limited Licensed Technologist (LLT)/Limited Licensed X-ray Technologist, Nuclear Medicine Technologist, Radiation Therapy Technologist, Radiologic Technologist (Radiographer)
Human Services, Arkansas Department of; Office of Long Term Care	1	Nursing Home Administrator
Law Enforcement Standards and Training, Arkansas Commission on	1	Law Enforcement Officer
Motor Vehicle Commission, Arkansas	5	Motor Vehicle Dealer, New; Motor Vehicle Lessor, New; Motor Vehicle Management/Financier/Salesperson, New; Motor Vehicle Manufacturer, Distributor, or Branch, New; Motor Vehicle Manufacturer/Distributor Representative, New
Nursing, Arkansas State Board of	9	APRN: Certified Nurse Midwife (CNM), APRN: Certified Nurse Practitioner, APRN: Certified Registered Nurse Anesthetist (CRNA), APRN: Clinical Nurse Specialist (CNS), Licensed Practical Nurse (LPN), Licensed Psychiatric Technician Nurse (LPTN), Medication Assistant (MA-C), Registered Nurse (RN), Registered Nurse Practitioner (RNP)
Pharmacy, Arkansas State Board of	3	Pharmacist, Pharmacist Intern, Pharmacy Technician
Physical Therapy, Arkansas State Board of	2	Physical Therapist (PT), Physical Therapist Assistant (PTA)
Plant Board, Arkansas State; Feed and Fertilizer Division; Public Grain Warehouse and Catfish Processor Section	2	Grain Dealer, Grain Warehouseman
Police, Arkansas State; Administrative Services Division; Trooper Recruiting	1	State Police Trooper
Soil Classifiers, Arkansas State Board of Registration for Professional	1	Soil Classifier
Total Entities Group 1: 17	51	

GROUP 2		
Entity	# of Licenses	Licenses Authorized
Abstracter's Board, Arkansas	1	Abstracter
Athletic Training, Arkansas State Board of	1	Athletic Trainer
Contractors Licensing Board, State of Arkansas	4	Commercial Contractor, Residential Building Contractor, Residential Home Improvement Specialty Contractor, Residential Remodeler Contractor
Embalmers and Funeral Directors, Arkansas State Board of	4	Embalmer, Embalmer Apprentice, Funeral Director, Funeral Director Apprentice
Environmental Quality, Arkansas Department of; Water Division	1	Wastewater Treatment Plant Operator
Health, Arkansas Department of; Cosmetology Section	5	Cosmetologist, Cosmetology Instructor, Electrologist, Esthetician, Manicurist
Health, Arkansas Department of; Massage Therapy Services	1	Massage Therapy
Human Services, Arkansas Department of; Division of Child Care and Early Childhood Education; Child Care Licensing	1	Child Care Provider
Labor, Arkansas Department of; Elevator Safety Division	4	Accessibility Technician, Elevator Contractor, Elevator Inspector, Elevator Mechanic
Medical Board, Arkansas State	6	Occupational Therapist (OT), Occupational Therapist Assistant (OTA), Physician (MD/DO), Physician Assistant (PA), Radiologist Assistant/Radiology Practitioner Assistant, Respiratory Therapist
Plant Board, Arkansas State; Seed Division	3	Agricultural Seed Dealer/Labeler, Commercial Applicator (Restricted-Use Seed Treatment), Plant Breeder
Psychology Board, Arkansas	2	Psychological Examiner, Psychologist
Real Estate Commission, Arkansas	2	Real Estate Broker, Real Estate Salesperson
Securities Department, Arkansas	8	Currency Exchanger, Investment Advisor, Investment Representative, Loan Officer, Money Transmitter, [Mortgage Broker, Mortgage Banker, Mortgage Servicer], Securities Agent, Securities Broker-Dealer
Veterinary Medical Examining Board, State of Arkansas	2	Veternarian, Veternary Technician
Total Entities Group 2: 15	45	

GROUP 3		
Entity	# of Licenses	Licenses Authorized
Accountancy, Arkansas State Board of Public	1	Certified Public Accountant
Counseling, Arkansas Board of Examiners in	4	Licensed Associate Counselor (LAC), Licensed Associate Marriage and Family Therapist (LAMFT), Licensed Marriage and Family Therapist (LMFT), Licensed Professional Counselor (LPC)
Engineers and Professional Surveyors, Arkansas State Board of Licensure for Professional	4	Engineer Intern, Professional Engineer, Professional Surveyor, Surveyor Intern
Finance and Administration, Arkansas Department of; Office of Driver Services	1	Commercial Driver (Tractor-Trailer Truck Driver)
Health, Arkansas Department of; Emergency Medical Services	3	Advanced EMT, Emergency Medical Technician, Paramedic
Human Services, Arkansas Department of; Office of Long Term Care	1	Nursing Assistant (Certified)
Labor, Arkansas Department of; Labor Standards Division	3	Employment Agency Manager, Employment Agent (Interviewer), Employment Counselor
Plant Board, Arkansas State; Feed and Fertilizer Division	1	Agricultural Consultant
Podiatric Medicine, Arkansas State Board of	1	Podiatrist
Racing Commission, Arkansas State; Arkansas Department of Finance and Administration	36	(Greyhound Racing) Clerk of Sales (Greyhound), Commission Judge, Commission Veterinarian (Greyhound), Greyhound Helper, Greyhound Lead-Out, Greyhound Owner, Mutuel Clerk, Mutuels Director, Paddock Judge (Greyhound), Presiding Judge (Greyhound), Racetrack Employee, Racing Director, Racing Secretary (Greyhound), Starter (Greyhound), Track Superintendent, Trainer (Greyhound), (Thoroughbreds) Clerk of Scales (Thoroughbreds), Commission Clocker, Commission Veterinarian (Thoroughbreds), Horse Owner, Horseshoer, Jockey, Jockey Agent, Jockey Apprentice, Mutuel Clerk, Paddock Judge (Thoroughbreds), Placing Judge (Thoroughbreds), Racetrack Employee, Racing Agent, [Racing Secretary, Handicapper (Thoroughbreds)], Starter (Thoroughbreds), Steward, Track Superintendent, Track Veterinarian (Thoroughbreds), Trainer (Thoroughbreds), Trainer Assistant
Social Work Licensing Board, Arkansas	3	Licensed Certified Social Worker, Licensed Master Social Worker, Licensed Social Worker
Water Well Construction Commission	3	Pump Installer, Water Well Contractor, Water Well Driller
Total Entities Group 3: 12	61	

GROUP 4		
Entity	# of Licenses	Licenses Authorized
Appraiser Licensing and Certification Board, Arkansas	1	Real Estate Appraiser
Barber Examiners, Arkansas State Board of	2	Barber (Registered), Barber Instructor
Dental Examiners, Arkansas State Board of	3	Dental Hygienist, Dentist, Registered Dental Asisstant
Environmental Quality, Arkansas Department of; Regulated Storage Tanks Division	2	Underground Storage Tank Licensed Contractor/Co, Underground Storage Tank Licensed Individual
Fire Training Academy, Arkansas	1	Firefighter II
Health, Arkansas Department of; Environmental Epidemiology; Lead-Based Paint Program	7	Lead-Based Paint Abatement Contractor/Consultant, Lead-Based Paint Abatement Inspector, Lead-Based Paint Abatement Project Designer, Lead-Based Paint Abatement Risk Assessor, Lead-Based Paint Abatement Supervisor, Lead-Based Paint Abatement Training Provider, Lead-Based Paint Abatement Worker
Health, Arkansas Department of; Protective Health Codes	14	Apprentice Plumber, Backflow Preventer Testing Technician, Backflow Prevention Repairman, Gas Fitter, Governmental Maintenance Plumber, Hospital Maintenance Plumber, HVAC/R Contractor, HVAC/R Mechanical Inspector, HVAC/R Registrant, Journeyman Plumber, Master Plumber, Plumbing and Gas Inspector, Restricted Water and Service Line Installer, Solar Mechanic Plumber
Health, Arkansas Department of; Women's Health	1	Licensed Lay Midwife
Insurance Department, Arkansas; License Division	6	Claims Adjuster, Insurance Broker (Surplus Line), Insrance Consultant, Insurance Sales Producer (Agent), Managing General Agent (MGA) [Insurance], Third Party Administrator (TPA) [Insurance]
Liquefied Petroleum Gas Board, Arkansas	2	Liquefied Petroleum Gas Safety Supervisor, Liquefied Petroleum Gas Truck Driver
Optician, Arkansas State Board of Dispensing	2	Dispensing Optician, Dispensing Optician Apprentice
Plant Board, Arkansas State; Pesticide Division	4	Commercial Applicator (Aerial or Ground), Commercial Applicator Technician, Custom Applicator (Aerial or Ground), Tree Injector (Forest Worker)
Police, Arkansas State; Regulatory Services Division; Concealed Handgun Carry License Section	1	Firearms Safety Training Instructor
Sanitarians, Arkansas State Board of Registered Professional	1	Sanitarian
Speech-Language Pathology and Audiology, Arkansas Board of Examiners in	3	Audiologist, Speech-Language Pathologist, Speech-Language Pathology Assistant
Total Entities Group 4: 15	50	

GROUP 5		
Entity	# of Licenses	Licenses Authorized
Architects, Landscape Architects and Interior Designers, Arkansas State Board of	3	Architect, Interior Designer, Landscape Architect
Chiropractic Examiners, Arkansas State Board of	1	Chiropractor
Dietetics Licensing Board, Arkansas	1	Dietitian
Environmental Quality, Arkansas Department of; Regulated Waste Operations; Office of Land Resources; Licensing Program	2	Illegal Dumps Control Officer, Solid Waste Management Facility Operator
Foresters, State Arkansas Board of Registration for	1	Forester
Health, Arkansas Department of; Environmental Health	8	Body Piercers, Onsite Wastewater System Monitor, Permanent Cosmetic Artist, Septic System Designer/Sewage Disposal Systems Designated Representative, Septic Tank Cleaner, Septic Tank Installer, Septic Tank Manufacturer, Tattoo Artist
Hearing Instrument Dispensers, Arkansas Board of	1	Hearing Instrument Dispenser
Labor, Arkansas Department of; Boiler Inspection Division	5	Boiler Inspector (Insurance), Boiler Inspector (State), Boiler Installer, Boiler Operator, Boiler Repairer
Livestock and Poultry Commission, Arkansas	2	Agriculture Commodity Grader, Agriculture Commodity Inspector
Optometry, Arkansas State Board of	1	Optometrist
Plant Board, Arkansas State; Plant Industry Division; Commercial Pest Control Section	1	Pest/Weed Control Applicator
Police, Arkansas State; Regulatory Services Division; Private Investigators - Security - Alarm Installation and Monitoring	16	Alarm Systems Agent, Alarm Systems Apprentice, Alarm Systems Monitor, Alarm Systems Technician, Class "B" Security Contractor Manager, Class "C" Security Contractor/Investigator Manager, Class "E" Alarm Systems Manager, Class "E-S" Single Station Manager, Class "G" Security Contractor/Investigator/Alarm Manager, Commissioned School Security Officer (CSSO), Commissioned Security Officer (CSO), Polygraph Examiner, Private Investigator, Private Security Officer (PSO), Security Department of a Private Business/School Manager, Voice Stress Analysis Examiner
Secretary of State, Office of the	1	Lobbyist
Supreme Court of Arkansas; Office of Professional Programs; Arkansas State Board of Law Examiners	1	Attorney
Total Entities Group 5: 14	44	

GROUP 6		
Entity	# of Licenses	Licenses Authorized
Athletic Commission, Arkansas State	11	Athletic Manager, Athletic Promoter/Matchmaker, Boxer/Kick Boxer, Competitive Sports Judge, Event Coordinator, Mixed Marial Artist, Professional Wrestler, Referee, Ring Announcer, Seconds/Corner, Timekeeper
Collection Agencies, Arkansas State Board of	2	Collection Agency Collector, Collection Agency Manager
Education, Arkansas Department of	12	Adult Education Teacher (Post-secondary), Building Administrator K-12, Career and Professional Permits Teacher/Instructor, District Administrator, Elementary and Secondary School Counselor, Elementary Educaiton K-6 Teacher, Library Media Specialist, Middle School Teacher, School Psychology Specialist, Secondary School Teacher, Special Education Instructional Specialist, Speech-Language Pathologist (School)
Environmental Quality, Arkansas Department of; Regulated Waste Operations; Office of Land Resources; Licensing Program	1	Waste Tire Transporter
Geologists, Arkansas State Board of Registration for Professional	1	Registered Geologist
Health, Arkansas Department of; Health Facility Services	4	Orthotic/Prosthetic Assistant, Othotist/Prosthetist, Pedorthist, Perfusionist
Home Inspector Registration Board, Arkansas	1	Home Inspector
Labor, Arkansas Department of; Arkansas Board of Electrical Examiners	9	Air Conditioning Electrician, Electrical Apprentice, Electrical Contractor, Industrial Maintenance Electrician, Journeyman Electrician, Master Electrician, Residential Journeyman Electrician, Residential Master Electrician, Specialist Sign Electrician
Manufactured Home Comission, Arkansas	9	Manufactured Home Installer, Manufactured Home Installing Retailer, Manufactured Home Manufacturer, Manufactured Home Retailer, Manufactured Home Salesperson, Modular Home Installer, Modular Home Manufacturer, Modular Home Retailer, Modular Home Salesperson
Plant Board, Arkansas State; Plant Industry Division; Plant Inspection and Quarantine Section	3	Landscape Contractor, Nursery Dealer, Nurseryman
Police, Arkansas State; Regulatory Services Division; Used Motor Vehicle Dealer License	1	Used Motor Vehicle Dealer
Secretary of State, Office of the; Business and Commercial Services Division	1	Notary Public
Towing and Recovery Board, State of Arkansas	1	Tow Vehicle/Wrecker Operator
Total Entities Group 6: 13	56	

Occupational Licensing Review Subcommittee-

Motions and Recommendations under Ark. Code Ann. § 10-3-318

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Legislative Intent of Act 600 of 2019 and the Process under § 10-3-318

- Determine and implement the least restrictive form of occupational authorization to protect consumers from significant and substantiated harms to public health and safety.
- Process to achieve this intent:
 - The Subcommittee will review each occupational authorization and each occupational entity on an annual rotating basis.
 - The Subcommittee will vote on recommendations for legislation to be submitted to Legislative Council.
 - The Legislative Council will vote on the recommendations.
 - Bills may be drafted based on those recommendations.



Recommendations and Motions

- Repeal the occupational authorization
- Convert the occupational authorization to a less restrictive occupational authorization
- Recommend the promulgation of revised rules reflecting the use of less restrictive occupational authorization
- Modify the qualifications for an occupational authorization
- Modify or redefine the scope of practice of an occupation or profession
- Recommend any other relevant legislative reforms deemed necessary
- Determine no changes or recommendations are necessary



DRAFT: July 22, 2021

RULES OF THE OCCUPATIONAL LICENSING REVIEW SUBCOMMITTEE OF THE LEGISLATIVE COUNCIL

1. Purpose. Act 600 of 2019, the Red Tape Reduction Sunrise and Sunset Act of 2019, tasked the Legislative Council with conducting an annual rotating review of all occupational authorizations in the state with the purpose of determining and implementing the least restrictive form of occupational authorization to protect consumers from significant and substantiated harms to public health and safety.

2. Definitions. As used in these rules:

(a) “Occupational authorization” means a license, government-required certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession; and

(b) “Occupational entity” means an office, board, commission, department, council, bureau, or other agency of state government having authority to establish or issue an occupational authorization.

3. Review of Occupational Authorizations and Occupational Entities.

(a) **Annual Review.** The Subcommittee shall review each occupational authorization and each occupational entity on an annual rotating basis to determine if the existing occupational authorization or occupational entity, or both, is consistent with the purpose set forth in Section 1 of these rules.

(b) **Groups.**

(1) The occupational authorizations and the occupational entities shall be divided into six (6) groups.

(2) A member of the General Assembly may request in writing to the Legislative Council co-chairs to review an occupational authorization or occupational entity out of the rotating basis. A decision by the Legislative Council co-chairs to approve a request for review out of group rotation will be reported to the Subcommittee at its next regularly scheduled meeting.

(3) The Subcommittee shall review one (1) group each year. After all groups have been reviewed one (1) time, the Subcommittee shall continue its review beginning again with the first group that was reviewed.

(c) **Standard of Review.**

(1) During its review of each occupational entity and occupational authorization, the Subcommittee shall analyze whether consumers are sufficiently protected by:

(A) Competition;

(B) Public knowledge of the reputations of the occupational practitioners;

(C) Private ratings and reviews;

(D) Private certification;

(E) Voluntary bonding; and

(F) Voluntary insurance.

(2) If during its review, the Subcommittee finds substantiated evidence that the items in subdivision (c)(1) of this section provides for insufficient protection from

significant harm, the Subcommittee shall use the following guidelines in conducting its review:

(A) The effects of existing occupational authorizations and any proposed occupational reform on opportunities for workers, consumer choices, consumer costs, general unemployment, market competition, government costs, and any other effects deemed relevant;

(B) Whether the occupational authorization and proposed occupational reform employs the least restrictive form of occupational authorization;

(C) To what degree existing occupational regulation and reform delegate administrative rules promulgation to the occupational entity concerning the:

(i) Scope of practice for the occupation or profession; or

(ii) Qualifications for the occupational authorization; and

(D) Whether a significant and substantiated exposure to antitrust litigation under any existing occupational regulation and under any proposed occupational reform exists.

(d) Recommendations.

(1) During its December meeting of each even-numbered year, the Subcommittee shall submit to the Legislative Council its recommendations regarding the:

(A) Repeal of an occupational authorization;

(B) Conversion of an occupational authorization to a less restrictive occupational authorization;

(C) Promulgation of revised rules reflecting the use of less restrictive occupational authorization;

(D) Modification of qualifications for an occupational authorization;

(E) Modification or redefinition of the scope of practice of an occupation or profession; or

(F) Any other relevant legislative reforms deemed necessary, including without limitation the following:

(i)(a) Allowing lawsuits in small claims court or district court to remedy a specific consumer harm arising from contractual disputes, including pricing disputes.

(b) This proposed legislation may provide for reimbursement of attorney's fees or court costs if a consumer claim is successful;

(ii) Strengthening the powers of deceptive trade practice laws or requiring disclosures to reduce misleading attributes of the specific good or services in order to address fraud;

(iii) Regulating an occupational process or business license in order to ensure public health and safety;

(iv) Requiring periodic facility inspections to address issues of unclean facilities;

(v) Requiring bonding of certain occupational licensees to address the issues of failure of occupational licensees to complete contracts fully or comply with occupational standards;

(vi) Requiring certain occupational licensees to have insurance to address the issue of lack of protection for a person who is not a party to a contract between an occupational licensee and a consumer;

(vii) Requiring registration with the Secretary of State of occupational licenses that are considered transient, out-of-state, or temporary;

(viii) Enacting government-required certification or other occupational authorization to correct shortfalls or lack of knowledge regarding a good or service among consumers relative to the occupational practitioner's knowledge; or

(ix) Enacting or maintaining an occupational authorization in situations in which there is found to be a systematic information shortfall in which a reasonable consumer of a service is permanently unable to distinguish between the quality of occupational licensees and an absence of guidance to the consumers exists.

(2) Upon adoption of any of the recommendations of the Subcommittee by the Legislative Council, the recommendations shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

4. Filing of Occupational Entity Reports with the Subcommittee.

(a) No later than the 15th of the month immediately preceding the month the occupational authorization is scheduled for review by the Subcommittee, the occupational entity shall file a report with the Subcommittee providing the following information:

(1) The name of the occupation, the type of regulation, and the scope of practice for each occupation that the occupational entity regulates;

(2) The amount of any fee or penalty associated with each occupation;

(3) The number of individuals regulated by the occupational entity, grouped by occupational authorization;

(4) A statement describing in what respects, if any, each occupational authorization is required by state or federal law;

(5) A copy of all administrative rules regarding the occupational authorization; and

(6) Evidence of any of the items listed in subdivision 3.(d)(1)(F) of these rules that the occupational entity desires the Subcommittee to review.

(b) Entity reports required under subsection 4.(a) of these rules shall be submitted **through an online submission form maintained by the Bureau of Legislative Research.**

ALC – Occupational Licensing Review Subcommittee
Occupational Entity Questionnaire

Responses to the following questions are due via email to Subcommittee staff no later than the 15th of the month immediately preceding the month the occupational authorization is scheduled for review by the Subcommittee.

1. Would consumers be at risk of substantial harm if Arkansas did not have this occupational authorization? What instances of specific and substantial harm have been documented in the past year?
2. How many complaints were made to the occupational entity by consumers being harmed by unauthorized practitioners? What specific action was taken by the occupational entity?
3. How many complaints were made to the occupational entity by consumers being harmed by authorized practitioners? What specific action was taken by the occupational entity?
4. Were any applicants who otherwise met authorization requirements denied an authorization in the past year? If so, why?
5. How much does the occupational entity collect annually in fees, and what are annual expenses? How much money does the occupational entity have in reserves?
6. If the occupational entity has a positive amount in reserves, when was the last time reserve funds were used? For what purpose?
7. Does the occupational entity have any other sources of revenue? Could occupational authorization fees be reduced without causing the occupational entity to be underfunded?
8. How many applicants for the occupational authorization fail each year? Does the occupational entity track how many applicants that do not progress are veterans, women, or minorities?
9. Can applicants complete the training requirements for this occupational authorization with vocational or non-traditional education (e.g., apprenticeships)? What percentage of applicants complete apprenticeships?
10. In what ways would removal of the occupational authorization or reduction of occupational authorization requirements be harmful to current authorization holders?