

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO  
UNOFFICIAL PREAMENDED VERSION

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 18-1074.01 Kip Kolkmeier x4510

SENATE BILL 18-193

SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 CONCERNING ADDITIONAL LIMITATIONS ON STATE AGENCY  
102 OCCUPATIONAL REGULATIONS, AND, IN CONNECTION  
103 THEREWITH, MAKING AN APPROPRIATION.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill prohibits state agencies from imposing a personal qualification requirement in order to engage in a profession or occupation unless the agency can show that the requirement is demonstrably necessary and narrowly tailored to address a specific, legitimate public health, safety, or welfare objective. On or before July 1, 2019, every

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

SENATE OFFICE OF LEGISLATIVE COUNSEL  
Amended 2nd Reading  
April 16, 2018  
SENATE OFFICE OF LEGISLATIVE COUNSEL  
Amended 2nd Reading  
April 17, 2018  
S:\SYSTEM\PPRE\MEND\193.ren-2018-5-2-123416.wpd with amendments L.001 and L.002



1 (e) THE BURDEN OF EXCESSIVE REGULATION IS BORNE MOST  
2 HEAVILY BY INDIVIDUALS OUTSIDE THE ECONOMIC MAINSTREAM FOR  
3 WHOM OPPORTUNITIES FOR ECONOMIC ADVANCEMENT ARE  
4 CONSEQUENTLY CURTAILED.

5 (2) IT IS IN THE PUBLIC INTEREST TO:

6 (a) ENSURE THE RIGHT OF ALL INDIVIDUALS TO PURSUE  
7 LEGITIMATE ENTREPRENEURIAL, PROFESSIONAL, AND OCCUPATIONAL  
8 OPPORTUNITIES TO THE LIMITS OF THEIR TALENT AND AMBITION;

9 (b) PROVIDE THE MEANS OF PROTECTING THIS RIGHT; AND

10 (c) ENSURE THAT EVERY STATE REGULATION HINDERING ENTRY  
11 INTO A PROFESSION OR OCCUPATION IS DEMONSTRABLY NECESSARY AND  
12 NARROWLY TAILORED TO ACHIEVING LEGITIMATE PUBLIC HEALTH, SAFETY,  
13 AND WELFARE OBJECTIVES.

14 **24-4-303. Definitions.** AS USED IN THIS PART 3, UNLESS THE  
15 CONTEXT OTHERWISE REQUIRES:

16 (1) "LEAST RESTRICTIVE REGULATION" MEANS, ~~FROM LEAST~~  
17 ~~TO MOST RESTRICTIVE, AN OCCUPATIONAL REGULATION THAT~~

18 (a) PROMOTES MARKET COMPETITION;

19 (b) RELIES ON THIRD-PARTY OR CONSUMER-CREATED RATINGS AND  
20 REVIEWS;

21 (c) UTILIZES PRIVATE CERTIFICATION; AND

22 (d) ALLOWS VOLUNTARY BONDING OR INSURANCE;

23 ~~(e) AUTHORIZES~~

24 ~~AUTHORIZES~~ PROVISIONS GRANTING A PRIVATE CIVIL CAUSE OF  
25 ACTION OR REMEDIES UNDER CONSUMER PROTECTION OR DECEPTIVE  
26 PRACTICE ACTS;

27 ~~REQUIRES MANDATORY~~ DISCLOSURES OF THE ATTRIBUTES OF

1 A SPECIFIC GOOD OR SERVICE OR REQUIREMENTS ON THE PROCESS OF  
2 PROVIDING A SPECIFIC GOOD OR SERVICE;

3 ~~(g) IMPOSES REGULATION OF THE PROCESS OF PROVIDING THE~~  
4 ~~SPECIFIC GOOD OR SERVICE OR REGULATION OF THE FACILITY WHERE THE~~  
5 ~~GOOD OR SERVICES PROVIDED;~~

6 ~~(h) REQUIRES INSPECTION;~~

7 ~~(i) REQUIRES BONDING;~~

8 ~~(j) REQUIRES INSURANCE;~~

9 ~~(k) REQUIRES REGISTRATION;~~

10 ~~(l) REQUIRES CERTIFICATION;~~

11 ~~(m) REQUIRES LICENSURE; OR~~

12 ~~(n) REQUIRES A COMBINATION OF TYPES OF REGULATIONS, MORE~~  
13 ~~RESTRICTIVE TYPES OF REGULATION, OR A PROHIBITION, AS DETERMINED~~  
14 ~~BY AN AGENCY;~~

15 (2) "OCCUPATIONAL LICENSE" MEANS A NONTRANSFERABLE AND  
16 EXCLUSIVE AUTHORIZATION IN STATUTE ESTABLISHING THE PERSONAL  
17 QUALIFICATIONS REQUIRED TO ENGAGE IN A PROFESSION OR OCCUPATION.

18 (3) "OCCUPATIONAL LICENSE FOR MEDICAL REIMBURSEMENT"  
19 MEANS A NONTRANSFERABLE AUTHORIZATION FOR AN INDIVIDUAL TO  
20 QUALIFY TO RECEIVE PAYMENT OR REIMBURSEMENT FROM A GOVERNMENT  
21 AGENCY FOR THE PROVISION OF MEDICAL SERVICES BASED ON MEETING  
22 ONE OR MORE PERSONAL QUALIFICATIONS.

23 (4) "OCCUPATIONAL REGULATION" MEANS A RULE, POLICY, FEE,  
24 CONDITION, TEST, PERMIT, OCCUPATIONAL LICENSE, REGISTRATION OR  
25 CERTIFICATION REQUIREMENT, ADMINISTRATIVE PRACTICE, OR OTHER  
26 REQUIREMENT OF AN AGENCY ESTABLISHING THE PERSONAL  
27 QUALIFICATIONS NECESSARY TO ENGAGE IN A PROFESSION OR

1 OCCUPATION.

2 (5) "PERSONAL QUALIFICATION" MEANS A CRITERION RELATED TO  
3 AN INDIVIDUAL'S PERSONAL BACKGROUND AND CHARACTERISTICS,  
4 INCLUDING COMPLETION OF AN APPROVED EDUCATIONAL PROGRAM,  
5 SATISFACTORY PERFORMANCE ON AN EXAMINATION, MINIMUM WORK  
6 EXPERIENCE, EVIDENCE OF ATTAINMENT OF REQUISITE SKILLS OR  
7 KNOWLEDGE, MORAL STANDING, CRIMINAL HISTORY, OR COMPLETION OF  
8 CONTINUING EDUCATION, THAT IS NECESSARY TO ENGAGE IN A PROFESSION  
9 OR OCCUPATION.

10 (6) "WELFARE" MEANS THE PROTECTION OF THE PUBLIC AGAINST  
11 FRAUD OR HARM. "WELFARE" DOES NOT INCLUDE THE PROTECTION OF AN  
12 INDIVIDUAL, CORPORATION, PARTNERSHIP, BUSINESS, INDUSTRY,  
13 ASSOCIATION, ORGANIZATION, OR AGENCY, WHETHER PUBLICLY OR  
14 PRIVATELY OWNED, AGAINST MARKET COMPETITION. THE DEFINITION OF  
15 WELFARE SHALL BE NARROWLY CONSTRUED.

16 **24-4-304. Limitation on occupational regulations.** (1) IN  
17 ADDITION TO ALL OTHER APPLICABLE REQUIREMENTS CONTAINED IN THIS  
18 ARTICLE 4, AN AGENCY SHALL NOT PROMULGATE OR ADMINISTER AN  
19 OCCUPATIONAL REGULATION UNLESS THE SPECIFIC REGULATION IS  
20 ~~NECESSARY TO ACHIEVE A~~ PUBLIC HEALTH, SAFETY, OR WELFARE  
21 OBJECTIVE.

22 (2) EACH PROPOSED OCCUPATIONAL REGULATION FILED WITH THE  
23 SECRETARY OF STATE IN ACCORDANCE WITH SECTION 24-4-103 (2.9) MUST  
24 INCLUDE A STATEMENT DESCRIBING HOW THE REGULATION COMPLIES WITH  
25 SUBSECTION (1) OF THIS SECTION AND IDENTIFYING THE SPECIFIC PUBLIC  
26 HEALTH, SAFETY, OR WELFARE OBJECTIVE NECESSITATING THE  
27 REGULATION.

1           **24-4-305. Agency review of occupational regulations - repeal**  
2 **or amend regulations - report to general assembly - repeal.** (1) ON OR  
3 BEFORE JULY 1, 2019, EVERY AGENCY SHALL CONDUCT A COMPREHENSIVE  
4 REVIEW OF ALL OCCUPATIONAL REGULATIONS PROMULGATED OR  
5 ADMINISTERED BY THAT AGENCY. THE COMPREHENSIVE REVIEW MUST  
6 INCLUDE GATHERING THE FOLLOWING INFORMATION FOR EACH  
7 OCCUPATIONAL REGULATION:

8           (a) THE SPECIFIC PUBLIC HEALTH, SAFETY, OR WELFARE  
9 OBJECTIVES OF THE REGULATION;

10           (b) THE REASONS WHY THE REGULATION IS NECESSARY TO MEET  
11 THE SPECIFIED OBJECTIVES;

12           (c) THE REGULATION'S IMPACT ON OPPORTUNITIES FOR  
13 EMPLOYMENT, CONSUMER CHOICES AND COSTS, MARKET COMPETITION,  
14 GOVERNMENTAL COSTS, AND ANY OTHER SIGNIFICANT IMPACT;

15           (d) A COMPARISON OF THE REGULATION TO SIMILAR REGULATIONS  
16 OF OTHER STATES; AND

17           (e) IF THE OCCUPATIONAL REGULATION IS REQUIRED BY STATUTE,  
18 THE SPECIFIC STATUTORY PROVISIONS AUTHORIZING OR REQUIRING THE  
19 OCCUPATIONAL REGULATION.

20           (2) FOLLOWING THE REVIEW REQUIRED BY SUBSECTION (1) OF THIS  
21 SECTION:

22           (a) IF THE AGENCY DETERMINES THAT AN OCCUPATIONAL  
23 REGULATION DOES NOT SATISFY THE STANDARD SET FORTH IN SECTION  
24 24-4-304 (1) AND THE REGULATION IS NOT REQUIRED BY STATUTE, THE  
25 AGENCY SHALL REPEAL OR OTHERWISE CEASE ADMINISTRATION OF THE  
26 OCCUPATIONAL REGULATION OR AMEND THE OCCUPATIONAL REGULATION  
27 TO CONFORM WITH THE STANDARD SET FORTH IN SECTION 24-4-304 (1);

1 AND

2 (b) IF THE AGENCY DETERMINES THAT AN OCCUPATIONAL  
3 REGULATION DOES NOT SATISFY THE STANDARD SET FORTH IN SECTION  
4 24-4-304 (1) BUT IS REQUIRED BY STATUTE, THE AGENCY SHALL  
5 RECOMMEND TO THE GENERAL ASSEMBLY LEGISLATION TO REPEAL OR  
6 AMEND THE STATUTORY OCCUPATIONAL REQUIREMENTS TO CONFORM TO  
7 THE STANDARD SET FORTH IN SECTION 24-4-304 (1).

8 (3) ON OR BEFORE JANUARY 1, 2020, EVERY AGENCY SHALL  
9 PREPARE AND SUBMIT A REPORT TO THE MEMBERS OF THE GENERAL  
10 ASSEMBLY STATING THE ACTIONS TAKEN TO CONFORM WITH THIS SECTION.

11 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

12 **24-4-306. Petition objecting to occupational regulation.** A  
13 PERSON MAY FILE A PETITION WITH AN AGENCY REQUESTING THE REPEAL  
14 OF, AMENDMENT TO, OR CESSATION OF ADMINISTRATION OF AN  
15 OCCUPATIONAL REGULATION PROMULGATED OR ADMINISTERED BY THAT  
16 AGENCY ON THE GROUNDS THAT THE OCCUPATIONAL REGULATION DOES  
17 NOT CONFORM TO THE STANDARD SET FORTH IN SECTION 24-4-304 (1).  
18 THE PETITION MUST STATE THE SPECIFIC CHALLENGED OCCUPATIONAL  
19 REGULATION. IF THE PETITION REQUESTS THAT THE OCCUPATIONAL  
20 REGULATION BE AMENDED AND NOT REPEALED, THE PETITION MUST  
21 PRECISELY STATE THE PROPOSED AMENDMENT. THE AGENCY SHALL ACT  
22 ON THE PETITION IN ACCORDANCE WITH SECTION 24-4-103 (7)(b).



25 **SECTION 2.** In Colorado Revised Statutes, 24-4-103, amend  
26 (6)(a), (7), and (8.1)(b) introductory portion; and add (2.9) and  
27 (8.1)(b)(XI) as follows:

1           **24-4-103. Rule-making - procedure - definitions - statutory**  
2 **citation correction - repeal.** (2.9) AT THE TIME OF FILING A NOTICE OF  
3 PROPOSED RULE-MAKING WITH THE SECRETARY OF STATE, THE AGENCY  
4 SHALL ALSO SUBMIT A STATEMENT TO THE SECRETARY IN ACCORDANCE  
5 WITH SECTION 24-4-304 (2).

6           (6) (a) A temporary or emergency rule may be adopted without  
7 compliance with the procedures prescribed in subsection (4) of this  
8 section and with less than the twenty days' notice prescribed in subsection  
9 (3) of this section, or where circumstances imperatively require, without  
10 notice, only if the agency finds that immediate adoption of the rule is  
11 imperatively necessary to comply with a state or federal law or federal  
12 regulation or for the preservation of public health, safety, or welfare and  
13 compliance with the requirements of this section would be contrary to the  
14 public interest and makes ~~such a~~ THAT finding on the record. ~~Such~~ THE  
15 findings and a statement of the reasons for the action shall be published  
16 with the rule. A temporary or emergency rule may be adopted without  
17 compliance with subsections (2.5), ~~and~~ (2.7), AND (2.9) of this section,  
18 but shall not become permanent without compliance with ~~such~~ SAID  
19 subsections (2.5), ~~and~~ (2.7), AND (2.9). A temporary or emergency rule  
20 ~~shall become~~ BECOMES effective on adoption or on ~~such~~ A later date as is  
21 stated in the rule, shall be published promptly, and shall have effect for  
22 not more than one hundred twenty days after its adoption, or for ~~such~~ THE  
23 shorter period as may be specifically provided by the statute governing  
24 ~~such~~ THE agency, unless made permanent by compliance with subsections  
25 (3) and (4) of this section.

26           (7) (a) Any interested person ~~shall have~~ HAS the right to petition  
27 for the issuance, amendment, or repeal of a rule. ~~Such~~ THE petition shall

1 MUST be open to public inspection. Action on such THE petition shall be  
2 IS within the discretion of the agency; but when an agency undertakes  
3 rule-making on any matter, all related petitions for the issuance,  
4 amendment, or repeal of rules on such THE matter shall be considered and  
5 acted upon in the same proceeding.

6 (b) (I) IF A PETITION IS FILED WITH AN AGENCY PURSUANT TO  
7 SECTION 24-4-306, THE AGENCY SHALL, WITHIN NINETY DAYS AFTER THE  
8 DATE THE PETITION IS FILED:

9 (A) REPEAL THE OCCUPATIONAL REGULATION THAT IS THE  
10 SUBJECT OF THE PETITION;

11 (B) AMEND THE OCCUPATIONAL REGULATION SO THAT THE  
12 OCCUPATIONAL REGULATION CONFORMS TO THE STANDARD SET FORTH IN  
13 SECTION 24-4-304;

14 (C) CEASE ADMINISTRATION OF THE OCCUPATIONAL REGULATION;  
15 OR

16 (D) ISSUE A STATEMENT EXPLAINING HOW THE OCCUPATIONAL  
17 REGULATION CONFORMS TO THE STANDARD SET FORTH IN SECTION  
18 24-4-304 (1) OR IS SPECIFICALLY REQUIRED BY STATUTE.

19 (II) FOR PURPOSES OF THIS SUBSECTION (7)(b), "OCCUPATIONAL  
20 REGULATION" HAS THE MEANING ESTABLISHED IN SECTION 24-4-303 (4).

21 (8.1) (b) The agency rule-making record shall MUST contain:

22 (XI) A COPY OF THE STATEMENT REQUIRED BY SUBSECTION (2.9)  
23 OF THIS SECTION.

24 SECTION 3. Appropriation. (1) For the 2018-19 state fiscal  
25 year, \$40,415 is appropriated to the department of agriculture. This  
26 appropriation is from the general fund and is based on an assumption that  
27 the department will require an additional 0.4 FTE. To implement this act.

1 the department may use this appropriation for occupational rule review.

2 (2) For the 2018-19 state fiscal year, \$76,887 is appropriated to  
3 the department of education. This appropriation is from the general fund  
4 and is based on an assumption that the department will require an  
5 additional 0.8 FTE. To implement this act, the department may use this  
6 appropriation for occupational rule review.

7 (3) For the 2018-19 state fiscal year, \$40,415 is appropriated to  
8 the department of human services. This appropriation is from the general  
9 fund and is based on an assumption that the department will require an  
10 additional 0.4 FTE. To implement this act, the department may use this  
11 appropriation for occupational rule review.

12 (4) For the 2018-19 state fiscal year, \$40,415 is appropriated to  
13 the department of public health and environment. This appropriation is  
14 from the general fund and is based on an assumption that the department  
15 will require an additional 0.4 FTE. To implement this act, the department  
16 may use this appropriation for occupational rule review.

17 (5) For the 2018-19 state fiscal year, \$2,306,226 is appropriated  
18 to the department of regulatory agencies. This appropriation is from the  
19 general fund and is based on an assumption that the department will  
20 require an additional 20.0 FTE. To implement this act, the department  
21 may use this appropriation for occupational rule review.

22 (6) For the 2018-19 state fiscal year, \$153,869 is appropriated to  
23 the department of revenue. This appropriation is from the general fund  
24 and is based on an assumption that the department will require an  
25 additional 1.7 FTE. To implement this act, the department may use this  
26 appropriation for occupational rule review.

27 **SECTION 4.** Act subject to petition - effective date. This act

1 takes effect at 12:01 a.m. on the day following the expiration of the  
2 ninety-day period after final adjournment of the general assembly (August  
3 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
4 referendum petition is filed pursuant to section 1 (3) of article V of the  
5 state constitution against this act or an item, section, or part of this act  
6 within such period, then the act, item, section, or part will not take effect  
7 unless approved by the people at the general election to be held in  
8 November 2018 and, in such case, will take effect on the date of the  
9 official declaration of the vote thereon by the governor.