

By: Representative Boyd

To: Accountability,
Efficiency, Transparency;
Judiciary A

HOUSE BILL NO. 1260

1 AN ACT TO AMEND SECTION 73-47-5, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE OCCUPATIONAL LICENSING REVIEW COMMISSION TO REVIEW
 3 THE SUBSTANCE OF ANY EXISTING OCCUPATIONAL REGULATION THAT WAS
 4 PROMULGATED BY AN OCCUPATIONAL LICENSING BOARD AND APPROVE,
 5 DISAPPROVE, DISAPPROVE WITH SUGGESTED AMENDMENT, OR ALLOW THE
 6 OCCUPATIONAL LICENSING BOARD TO REPEAL OR REVISE THE OCCUPATIONAL
 7 REGULATION TO ENSURE COMPLIANCE WITH STATE POLICY; TO AMEND
 8 SECTION 73-47-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
 9 ACTIVE SUPERVISION OF STATE EXECUTIVE BRANCH OCCUPATIONAL
 10 LICENSING BOARDS CONTROLLED BY ACTIVE MARKET PARTICIPANTS TO
 11 ENSURE COMPLIANCE WITH STATE POLICY FOR ANY EXISTING REGULATION
 12 THAT WAS PROMULGATED BY AN OCCUPATIONAL LICENSING BOARD SHALL BE
 13 REVIEWED THROUGH A PROCESS ADOPTED BY THE COMMISSION; AND FOR
 14 RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 **SECTION 1.** Section 73-47-5, Mississippi Code of 1972, is
 17 amended as follows:

18 73-47-5. As used in this chapter, the following words and
 19 phrases shall have the meanings ascribed in this section unless
 20 the context clearly indicates otherwise:

21 (a) "Active market participant" means an individual
 22 who is:

23 (i) Licensed by an occupational licensing board;



24 (ii) Provides any service subject to the
25 regulatory authority of an occupational licensing board; or

26 (iii) Is subject to the jurisdiction of an
27 occupational licensing board;

28 (b) "Active supervision" means the Occupational
29 Licensing Review Commission shall:

30 (i) Review the substance of an occupational
31 regulation proposed by any occupational licensing board * * *
32 and * * * approve, disapprove, disapprove with suggested
33 amendment, or allow the occupational licensing board to withdraw
34 for revision such occupational regulation to ensure compliance
35 with state policy; and

36 (ii) Review the substance of any existing
37 occupational regulation promulgated by an occupational licensing
38 board and approve, disapprove, disapprove with suggested
39 amendment, or allow the occupational licensing board to repeal or
40 revise the occupational regulation to ensure compliance with state
41 policy;

42 (c) "Commission" means the Occupational Licensing
43 Review Commission created in Section 73-47-9;

44 (d) "State policy" means the policy provided in Section
45 73-47-7;

46 (e) "Occupational licensing board" means any state
47 executive branch board, commission, department or other agency
48 that is:



49 (i) Established for the primary purpose of
50 regulating the entry of persons into, or regulating the conduct of
51 persons within, a particular profession or occupation;

52 (ii) Authorized to issue and revoke occupational
53 licenses; and

54 (iii) Controlled by active market
55 participants * * *;

56 (f) "Occupational regulation" means a rule, regulation,
57 restraint, practice or policy that allows an individual to use an
58 occupational title or work in a lawful occupation. "Occupational
59 regulation" includes registrations, certifications and
60 occupational licenses, and does not include a business license,
61 facility license, building permit or zoning and land use
62 regulation except to the extent those state laws regulate an
63 individual's personal qualifications to perform a lawful
64 occupation;

65 (g) "Personal qualifications" means the criteria
66 related to an individual's personal background and
67 characteristics, including completion of an approved educational
68 program, satisfactory performance on an examination, work
69 experience, other evidence of attainment of requisite skills or
70 knowledge, moral standing, criminal history and completion of
71 continuing education;

72 (h) "Registration" means a requirement to give notice
73 to the government that may include the individual's name and



74 address, the individual's agent for service of process, the
75 location of the activity to be performed, and a description of the
76 service the individual provides. "Registration" does not include
77 personal qualifications, but may require a bond or insurance.
78 Upon the government's receipt of notice, the individual may use
79 "registered" as a designated title. A nonregistered individual
80 may not perform the occupation for compensation or use
81 "registered" as a designated title. Registration is not
82 transferable;

83 (i) "Certifications" mean a voluntary program in which
84 a private organization or the state grants nontransferable
85 recognition to an individual who meets personal qualifications
86 established by the private organization or the state. Upon
87 approval, the individual may use "certified" as a designated
88 title. A noncertified individual may also perform the occupation
89 for compensation but may not use the title "certified";

90 (j) "Occupational license" means a nontransferable
91 authorization in law for an individual to exclusively perform a
92 lawful occupation for compensation based on meeting certain
93 personal qualifications. In an occupation for which a license is
94 required, it is illegal for an individual who does not possess a
95 valid occupational license to perform the occupation for
96 compensation;

97 (k) "Least restrictive regulation" means, from least to
98 most restrictive:



- 99 (i) Market competition;
- 100 (ii) Third-party or consumer-created ratings and
101 reviews;
- 102 (iii) Private certification;
- 103 (iv) Specific private civil cause of action to
104 remedy consumer harm under a deceptive trade practice act;
- 105 (v) Regulation of the process of providing the
106 specific goods or services to consumers;
- 107 (vi) Inspection;
- 108 (vii) Bonding or insurance;
- 109 (viii) Registration;
- 110 (ix) Government certification; and
- 111 (x) Occupational license.

112 **SECTION 2.** Section 73-47-9, Mississippi Code of 1972, is
113 amended as follows:

114 73-47-9. (1) There is hereby created the Occupational
115 Licensing Review Commission which shall be composed of the
116 Governor, the Secretary of State and the Attorney General, or his
117 or her respective designee. The Governor shall be the Chairman of
118 the commission and the Secretary of State shall be the Secretary.
119 The commission shall meet quarterly and at such other times as
120 meetings may be called by the chair. A majority of the members
121 shall constitute a quorum at any meeting. Any final action taken
122 by the commission shall require the affirmative vote of a majority
123 of the members. The Office of the Governor shall provide such



124 support of the commission necessary to accomplish the purposes of
125 this chapter, including, but not limited to, research and clerical
126 assistance. Any department, division, board, bureau, commission
127 or agency of the state shall provide, at the request of the chair
128 of the commission, such assistance and data as will enable the
129 commission to carry out its duties.

130 (2) The commission shall be responsible for the active
131 supervision of state executive branch occupational licensing
132 boards controlled by active market participants to ensure
133 compliance with state policy * * * for any occupational
134 regulation * * * proposed by an occupational licensing board and
135 for any existing occupational regulation that was promulgated by
136 an occupational licensing board. The active supervision of state
137 executive branch occupational licensing boards controlled by
138 active market participants to ensure compliance with state policy
139 for any existing regulation that was promulgated by an
140 occupational licensing board shall be reviewed through a process
141 adopted by the commission. The active supervision required under
142 this act shall not extend to individual disciplinary actions taken
143 or imposed by an occupational licensing board as to any active
144 market participant subject to the jurisdiction of the occupational
145 licensing board.

146 (3) An occupational licensing board must submit any proposed
147 occupational regulation to the commission before the occupational
148 licensing board may file the occupational regulation in the Office



149 of the Secretary of State if the occupational regulation is
150 required to be filed in the Office of the Secretary of State by
151 Chapter 43, Title 25, Mississippi Code of 1972, (Mississippi
152 Administrative Procedures Law), or before the occupational
153 regulation becomes effective if filing is not required.

154 (4) The commission shall issue resolutions necessary to
155 effectuate the provisions of this chapter, including the process,
156 procedures and timelines that will govern any submission filed in
157 accordance with the chapter. Nothing in this chapter shall be
158 interpreted to subject the commission to any of the administrative
159 procedures of Chapter 43, Title 25, Mississippi Code of 1972,
160 (Mississippi Administrative Procedures Law).

161 **SECTION 3.** This act shall take effect and be in force from
162 and after July 1, 2020.

