



State of Tennessee

PUBLIC CHAPTER NO. 1053

SENATE BILL NO. 2469

By Green, Johnson, Roberts, Bell, Gresham, Stevens, Beavers, Bowling, Crowe, Dickerson, Niceley, Norris

Substituted for: House Bill No. 2201

By Daniel, Reedy, Sanderson, Zachary, Jerry Sexton, Terry, Hazlewood, Holt, Hardaway, Lynn

AN ACT to amend Tennessee Code Annotated, Title 4; Title 7; Title 38; Title 62; Title 63 and Title 67, relative to businesses, professions, and occupations.

WHEREAS, the right of individuals to pursue a chosen business or profession, free from arbitrary or excessive government interference, is a fundamental civil right; and

WHEREAS, the freedom to earn an honest living traditionally has provided the surest means for economic mobility; and

WHEREAS, in recent years, many regulations of entry into businesses and professions have exceeded legitimate public purposes and have had the effect of arbitrarily limiting entry and reducing competition; and

WHEREAS, the burden of excessive regulation is borne most heavily by individuals outside the economic mainstream, for whom opportunities for economic advancement are curtailed; and

WHEREAS, it is in the public interest to ensure the right of all individuals to pursue legitimate entrepreneurial and professional opportunities to the limits of their talent and ambition; to provide the means for the vindication of this right; and to ensure that regulations of entry into businesses, professions, and occupations are demonstrably necessary and narrowly tailored to legitimate health, safety, and welfare objectives; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Right to Earn a Living Act".

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 5, is amended by adding the following language as a new part:

4-5-501. As used in this part:

(1) "Entry regulation" means:

(A) Any rule promulgated by a licensing authority for the purpose of regulating an occupational or professional group, including, but not limited to, any rule prescribing qualifications or requirements for a person's entry into, or continued participation in, any business, trade, profession, or occupation in this state; or

(B) Any policy or practice of a licensing authority that is established, adopted, or implemented by a licensing authority for the purpose of regulating an occupational or professional group, including, but not limited to, any policy or practice relating to the qualifications or requirements of a person's entry into, or continued participation in, any business, trade, profession, or occupation in this state; and

(2) "Licensing authority" means any state regulatory board, commission, council, or committee in the executive branch of state government established by

statute or rule that issues any license, certificate, registration, certification, permit, or other similar document for the purpose of entry into, or regulation of, any occupational or professional group. "Licensing authority" does not include any state regulatory board, commission, council, or committee that regulates a person under title 63 or title 68, chapter 11 or 140.

4-5-502.

(a)(1) No later than December 31, 2016, each licensing authority shall submit a copy of all existing or pending entry regulations pertaining to the licensing authority and an aggregate list of such entry regulations to the chairs of the government operations committees of the senate and house of representatives. The committees shall conduct a study of such entry regulations and may, at the committees' discretion, conduct a hearing regarding the entry regulations submitted by any licensing authority. The committees shall issue a joint report regarding the committees' findings and recommendations to the general assembly no later than January 1, 2018.

(2) After January 1, 2018, each licensing authority shall, prior to the next occurring hearing regarding the licensing authority held pursuant to § 4-29-104, submit to the chairs of the government operations committees of the senate and house of representatives a copy of any entry regulation promulgated by or relating to the licensing authority after the date of the submission pursuant to subdivision (a)(1). The appropriate subcommittees of the government operations committees shall consider the licensing authority's submission as part of the governmental entity review process and shall take any action relative to subsections (b)-(d) as a joint evaluation committee. Prior to each subsequent hearing held pursuant to § 4-29-104, the licensing authority shall submit any entry regulation promulgated or adopted after the submission for the previous hearing.

(3) In addition to the process established in subdivisions (a)(1) and (2), the chairs of the government operations committees of the senate and house of representatives may request that a licensing authority present specific entry regulations for the committees' review pursuant to this section at any meeting of the committees.

(4) Notwithstanding this subsection (a), the governor or the commissioner of any department created pursuant to title 4, chapter 3, relative to a licensing authority attached to the commissioner's department, may request the chairs of the government operations committees of the senate and house of representatives to review, at the committees' discretion, specific entry regulations pursuant to this section.

(b) During a review of entry regulations pursuant to this section, the government operations committees shall consider whether:

(1) The entry regulations are required by state or federal law;

(2) The entry regulations are necessary to protect the public health, safety, or welfare;

(3) The purpose or effect of the entry regulations is to unnecessarily inhibit competition or arbitrarily deny entry into a business, trade, profession, or occupation;

(4) The intended purpose of the entry regulations could be accomplished by less restrictive or burdensome means; and

(5) The entry regulations are outside of the scope of the licensing authority's statutory authority to promulgate or adopt entry regulations.

(c) The government operations committees may express the committees' disapproval of an entry regulation promulgated or adopted by the licensing authority by voting to request that the licensing authority amend or repeal the entry regulation promulgated or adopted by the licensing authority if the committees determine during a review that the entry regulation:

(1) Is not required by state or federal law; and

(2)(A) Is unnecessary to protect the public health, safety, or welfare;

(B) Is for the purpose or has the effect of unnecessarily inhibiting competition;

(C) Arbitrarily denies entry into a business, trade, profession, or occupation;

(D) With respect to its intended purpose, could be accomplished by less restrictive or burdensome means, including, but not limited to, certification, registration, bonding or insurance, inspections, or an action under the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1; or

(E) Is outside of the scope of the licensing authority's statutory authority to promulgate or adopt entry regulations.

(d)(1) Notice of the disapproval of an entry regulation promulgated or adopted by a licensing authority shall be posted by the secretary of state, to the administrative register on the secretary of state's web site, as soon as possible after the committee meeting in which such action was taken.


(2) If a licensing authority fails to initiate compliance with any recommendation of the government operations committees issued pursuant to subsection (c) within ninety (90) days of the issuance of the recommendation, or fails to comply with the request within a reasonable period of time, the committees may vote to request the general assembly to suspend any or all of such licensing authority's rulemaking authority for any reasonable period of time or with respect to any particular subject matter, by legislative enactment.

(e) Except as provided in subdivision (a)(2), for the purposes of reviewing any entry regulation of a licensing authority and making final recommendations under this section, the government operations committees may meet jointly or separately and, at the discretion of the chair of either committee, may form subcommittees for such purposes.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

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PASSED: April 20, 2016



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 20th day of April 2016



BILL HASLAM, GOVERNOR