

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1426

By: Newberry

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5  
6 AS INTRODUCED

7 An Act relating to the Oklahoma Master Business  
8 License System Act; amending 74 O.S. 2011, Sections  
9 5058.1, 5058.2, 5058.3, 5058.4, 5058.5, 5058.6 and  
10 5058.7, which relate to short title, purpose,  
11 definitions, business information office, automated  
12 master application system, cooperation of agencies,  
13 and authority of licensing agency; modifying name of  
14 act; modifying language; defining term; directing  
15 Attorney General to provide certain legal advice;  
16 establishing system for certain occupational boards  
17 to submit certain information; directing agency  
18 cooperation for certain purpose; making review and  
19 oversight mandatory for certain information; creating  
20 a review committee for certain purpose; naming  
21 members; providing for co-chairs; establishing  
22 quorum, meetings and voting; granting certain  
23 immunity under certain conditions; stating content of  
24 reviews; authorizing veto, modification and  
adjustment to certain agency decisions; designating  
maximum time for meetings; providing for  
codification; providing an effective date; and  
declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 2011, Section 5058.1, is  
amended to read as follows:

Section 5058.1. Sections ~~4~~ 5058.1 through ~~7~~ 5058.7 of this ~~act~~  
title and Section 8 of this act shall be known and may be cited as

1 the "Oklahoma Master Business License and Occupational License  
2 Review System Act".

3 SECTION 2. AMENDATORY 74 O.S. 2011, Section 5058.2, is  
4 amended to read as follows:

5 Section 5058.2. The purpose of ~~this act~~ the Oklahoma Master  
6 Business License and Occupational License Review System Act is to  
7 provide a convenient, accessible, and timely one-stop system that  
8 will enable individuals and the business community to acquire and  
9 maintain the necessary state licenses to conduct business in this  
10 state and to have oversight and review of the occupational license  
11 determinations by the various licensing agencies, boards,  
12 commissions and committees in this state. It is the intent of the  
13 Legislature that use of this one-stop system by a person or business  
14 be optional and that any person or business may continue to work  
15 directly with the appropriate state agency if preferred; however,  
16 the oversight and review of each licensing agency's, board's,  
17 commission's or committee's decisions regarding occupational or  
18 professional license decisions shall be mandatory.

19 SECTION 3. AMENDATORY 74 O.S. 2011, Section 5058.3, is  
20 amended to read as follows:

21 Section 5058.3. As used in ~~this act~~ the Oklahoma Master  
22 Business License and Occupational License Review System Act:

23 1. "Director" means the Director of the Oklahoma Department of  
24 Commerce;

1           2. "Department" means the Oklahoma Department of Commerce;

2           3. "License" means any certificate, permit or other evidence,  
3 by whatever name called, of a right or privilege to engage in any  
4 activity, except occupational licenses and licenses issued under  
5 Title 47 of the Oklahoma Statutes;

6           4. "Occupational license" means any certificate, permit, or  
7 other evidence, by whatever name called, of a right or privilege to  
8 engage in a profession, occupation, or field of endeavor that is  
9 issued by an occupational licensing agency;

10           5. "Occupational licensing agency" means any board, commission,  
11 committee, or other agency of this state that is established for the  
12 primary purpose of regulating the admission or conduct of persons in  
13 a particular profession, occupation, or field of endeavor, and is  
14 authorized to issue and revoke licenses. The term does not include  
15 a state agency or department that issues permits or licenses as only  
16 a part of its regular function; ~~and~~

17           6. "Office" means the Business License Information Office; and

18           7. "Review Committee" means a state-authorized group of state  
19 officials created by this act to provide oversight and review of the  
20 activities of the various occupational and professional licensing  
21 agencies, boards, commissions and committees in this state who have  
22 statutory authority to issue occupational or professional licenses  
23 and to discipline its licensees or others. This review committee  
24 shall review the rules promulgated by the various occupational and

1 professional agencies, boards, commissions and committees and any  
2 determinations by such agency, board, commission or committee  
3 regarding discipline against an individual or business, including  
4 any issuance or denial of an individual's occupational or  
5 professional license, any action seeking injunctions, cease-and-  
6 desist orders, threats of civil or criminal action, imposition of  
7 administrative fines or other direct orders affecting an individual  
8 or business that may be construed as matters of antitrust,  
9 anticompetitive or unfair trade practices.

10 SECTION 4. AMENDATORY 74 O.S. 2011, Section 5058.4, is  
11 amended to read as follows:

12 Section 5058.4. A. There is hereby established within the  
13 Oklahoma Department of Commerce the Business License Information  
14 Office. The Office shall be under the direction and supervision of  
15 a full-time state employee as appointed by the Director of the  
16 Department. Additional staff sufficient to perform the duties of  
17 the Office shall be provided under the direction of the Director.  
18 The Attorney General, or his or her delegated Assistant Attorney  
19 General, shall provide legal advice and counsel for the review  
20 committee for the purposes of this act.

21 B. The Office shall be a clearinghouse for state business  
22 license information, provide staff assistance for the occupational  
23 and professional license review committee, and shall perform the  
24 following duties:

1 1. Establish a license information service detailing  
2 requirements for establishing and engaging in business in this  
3 state, including state licensing and regulatory requirements, and,  
4 to the extent feasible, local and federal requirements;

5 2. Provide the most recent forms and information sheets for all  
6 state business licenses;

7 3. Prepare, publish, and distribute a complete directory of all  
8 state licenses required to do business in this state;

9 4. Make recommendations to agencies and the Legislature for  
10 eliminating, consolidating, simplifying, or expediting licenses, or  
11 otherwise improving licensing procedures affecting business  
12 undertakings; ~~and~~

13 5. Promulgate and adopt rules and forms necessary to carry out  
14 the purposes of ~~this act~~ the Oklahoma Master Business License and  
15 Occupational License Review System Act; and

16 6. Establish a system for immediate receipt and ability to  
17 review the various occupational and professional agency, board,  
18 commission and committee actions regarding occupational or  
19 professional license applications, issuance of occupational or  
20 professional licenses, and disciplinary actions against a licensee  
21 or other individuals or businesses.

22 SECTION 5. AMENDATORY 74 O.S. 2011, Section 5058.5, is  
23 amended to read as follows:  
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1 Section 5058.5. The Business License Information Office shall  
2 develop an operating plan for an automated master application  
3 system, shall determine the software and hardware needs of the  
4 system, and shall determine the staffing levels and space required  
5 for the system. State agencies that issue business licenses shall  
6 assist and cooperate in the development and implementation of the  
7 plan as required by the Office. In making the determination and  
8 developing an operating plan for an automated master application  
9 system, the Office shall identify the business licenses appropriate  
10 for inclusion in a master application system and shall develop a  
11 master application form that consolidates the information needed for  
12 the various state agencies to issue the licenses. The office shall  
13 develop a system for appropriate and timely oversight and written  
14 receipt of the activities and decisions of the various occupational  
15 and professional licensing agencies, boards, commissions and  
16 committees in this state regarding their duty to have certain  
17 decisions reviewed by the review committee.

18 SECTION 6. AMENDATORY 74 O.S. 2011, Section 5058.6, is  
19 amended to read as follows:

20 Section 5058.6. A. Each state agency that issues licenses  
21 shall cooperate fully with the Business License Information Office  
22 in providing information on the licenses and regulatory requirements  
23 of the agency and in developing a plan for an automated master  
24 application system.

1 B. Each state agency shall designate a business license  
2 coordinator. The coordinator shall have the following  
3 responsibilities:

4 1. Provide to the Office the most recent application and  
5 supplemental forms required for each license issued by the agency,  
6 the most recent information available on existing and proposed  
7 changes in license requirements or agency rules and how those  
8 changes will affect the business community, and agency publications  
9 that would be of aid or interest to the business community;

10 2. Receive and respond to communications from the Office; and

11 3. Review state agency regulatory and license requirements and  
12 provide a written report to the Office no later than January 1,  
13 1999, and every two (2) years thereafter that:

14 a. identifies the regulatory and licensing requirements  
15 that affect the business community,

16 b. indicates which, if any, requirements should be  
17 eliminated, modified, or consolidated with other  
18 requirements, and

19 c. explains the need for continuing those requirements  
20 not recommended for elimination.

21 C. Each state agency, board, commission or committee that  
22 issues occupational or professional licenses shall cooperate fully  
23 with the Office in providing information on its rules, activities  
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1 and decisions regarding information required to have oversight and  
2 review by the Review Committee as provided in this act.

3 SECTION 7. AMENDATORY 74 O.S. 2011, Section 5058.7, is  
4 amended to read as follows:

5 Section 5058.7. A. The services offered to persons by the  
6 Business License Information Office are optional. Any person may  
7 deal directly with a state agency in obtaining information or  
8 assistance, or in applying for a license if the person so prefers.

9 B. The authority for determining whether a requested license  
10 shall be issued shall remain with the state agency legally  
11 authorized to issue the license. However, all rules and  
12 determinations regarding issuance or denial of a license or any  
13 disciplinary actions relating to occupational or professional  
14 licenses or others may be subject to an automatic and mandatory  
15 review by the Review Committee as provided in this act.

16 SECTION 8. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5058.8 of Title 74, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. There is hereby created the Review Committee within the  
20 Department of Commerce for the Oklahoma Master Business License and  
21 Occupational License Review System Act.

22 B. The Committee shall be composed of the Attorney General, or  
23 his or her delegated Assistant Attorney General, and the Director of  
24 the Department of Commerce, or his or her delegate, who shall serve

1 as the co-chairs, and the Commissioner of the Department of Labor,  
2 or his or her delegate.

3 C. At least one of the co-chairs must be present to chair the  
4 meetings of the committee. Two members shall constitute a quorum  
5 for purposes of meetings and voting. Meetings may be held by any  
6 means of electronic, telephone or computer technology to facilitate  
7 participation and attendance by members. Each member shall be a  
8 voting member with a delegate having the vote of his or her  
9 appointing member when such member is absent from the meeting. No  
10 meeting shall be held without the attendance of at least one  
11 attorney member representing the Office of the Attorney General.

12 D. The Committee shall provide oversight to the occupational  
13 and professional licensing agencies, boards, commissions and  
14 committees of this state for any decisions relating to rulemaking,  
15 license actions and disciplinary actions. When an occupational or  
16 professional licensing agency consistently adheres to the  
17 supervision and review of the Committee of its decisions, it shall  
18 be granted full state immunity from liability for any legal action  
19 resulting in a claim of antitrust, anticompetitive or unfair trade  
20 practice violations; provided, the policy sought to be enforced by  
21 the agency, board, commission or committee is clearly a state  
22 articulated policy and that such policy is the state's policy by  
23 statutory authority or by the Governor and Legislature approval of  
24

1 its rules or its action has been approved by vote of the Review  
2 Committee.

3 E. The Committee shall specifically review the following  
4 activities of the various occupational and professional licensing  
5 agencies, boards, commissions and committees:

6 1. The promulgation of rules to assure first: that such  
7 rulemaking authority is lawfully delegated to the agency, board,  
8 commission or committee by statutory authority, and second: that  
9 the subject, content and specific language of the rule is clearly  
10 articulated within the statutory authority and framework to be the  
11 state's own policy;

12 2. Any cease-and-desist orders, injunctions or any letters  
13 threatening civil or criminal action for an alleged violation of law  
14 or rule relating to the occupation or profession;

15 3. Any matter that is deemed an expansion or restriction of the  
16 state's sovereign power to regulate an occupation or profession by  
17 statutory authority;

18 4. Any action that is deemed a denial of an occupational or  
19 professional license or a disciplinary action against an individual,  
20 business or licensee that could be construed as an antitrust,  
21 anticompetitive or unfair trade practice;

22 5. Imposition of administrative fines or penalties to assure  
23 the amount is authorized by statutory authority or approved rule;  
24 and

1           6. All emergency rules.

2           F. No member of the Committee shall vote on a matter where such  
3 member is an active participant in the market, directly or  
4 indirectly, which is affected by the matter before the Committee for  
5 oversight or review.

6           G. The Committee has authority to veto any action by any  
7 agency, board, commission or committee subject to its oversight and  
8 review, or to modify, alter, rescind or otherwise make adjustments  
9 to any action of the agency, board, commission or committee subject  
10 to its oversight and review, provided such action is authorized by  
11 law, rule or the provisions of this act. Should the Committee  
12 desire to refer the matter solely to the Attorney General for legal  
13 action, opinion or determination, the members shall vote accordingly  
14 to refer the matter and under such affirmative vote shall refer the  
15 matter to the representative member of the Office of the Attorney  
16 General for immediate action.

17           H. The Committee shall meet whenever matters are presented to  
18 it to review but not later than thirty (30) days after a matter is  
19 presented. The Committee shall provide continuous oversight by  
20 monitoring agendas of the various agencies, boards, commissions and  
21 committees under its oversight authority.

22           SECTION 9. This act shall become effective July 1, 2016.

23           SECTION 10. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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