

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 756

By: Bergstrom

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5
6 AS INTRODUCED

7 An Act relating to occupational certification;
8 creating the Oklahoma Certification Opportunity Act;
9 providing short title; defining terms; providing for
10 voluntary private certifications and registration;
11 stating requirements for registrations; mandating
12 publication of certain information on website;
13 authorizing private bond and fees; preempting certain
14 government regulations; prohibiting certain
15 penalties; providing for certain signs; prohibiting
16 use of certain titles; making certain acts fraud;
17 setting penalty; providing for enforcement;
18 construing provisions; providing for codification;
19 and providing an effective date.

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4500 of Title 59 , unless there
23 is created a duplication in numbering, reads as follows:

24 This act shall be known and may be cited as the "Oklahoma
Certification Opportunity Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 4500.1 of Title 59, unless there
is created a duplication in numbering, reads as follows:

DEFINITIONS

1 1. "Government" means the State of Oklahoma and its political
2 subdivisions;

3 2. "Lawful occupation" means a course of conduct, pursuit or
4 profession that includes the sale of goods or services that is not
5 itself illegal irrespective of an occupational regulation;

6 3. "Occupational regulation" means a statute, ordinance, rule or
7 other requirement in law that requires an individual to possess certain
8 personal qualifications to work in a lawful occupation;

9 4. "Qualifications" means criteria related to an individual's
10 personal background that may include completion of an approved
11 educational program, satisfactory performance on an examination, work
12 experience, criminal history, moral standing, completion of continuing
13 education, a standard of ethical behavior or other criteria as
14 determined by a private certifying organization to qualify the
15 individual to perform a service to an acceptable standard as
16 determined by the private certifying organization;

17 5. "Private certification" means a nontransferable recognition by a
18 private certifying organization that an individual meets the
19 qualifications determined by the private certifying organization;

20 6. "Private certifying organization" means a nongovernmental
21 organization that allows any individual to apply for private
22 certification regardless of the individual's race, creed, color,
23 ethnicity, national origin, religion, sex, sexual orientation, or
24 marital status;

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1 7. "Participating private certifying organization" means a
2 private certifying organization that registers and otherwise meets the
3 criteria specified in subsection C of Section 3 of this act; and

4 8. "Privately certified" means a designated title that an
5 individual may use if the individual is certified by a participating
6 private certifying organization.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4500.2 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 PRIVATE CERTIFYING ORGANIZATIONS; BOND

11 A. A private certifying organization may voluntarily participate
12 and register with the government under this section.

13 B. To participate, a private certification organization shall
14 register with the Secretary of State. It shall provide the Secretary
15 with the organization's name, address, officers and the names of
16 individuals initially privately certified. The Secretary may impose
17 a registration fee to recoup its costs and promulgate rules and forms
18 to facilitate registration.

19 C. A participating private certifying organization shall:

- 20 1. Publish on a publicly accessible website all of the following:
- 21 a. the scope of practice for each lawful occupation that
 - 22 the organization certifies,
 - 23 b. the qualifications that an individual must possess to
 - 24 become certified by the private certifying organization,
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- 1 c. other factors the private certifying organization uses
2 to certify individuals which may include consumer
3 comments, rankings and other consumer-initiated
4 elements,
5 d. the names, business addresses and websites of all
6 individuals privately certified by the organization, and
7 e. the states in which the private certifying organization
8 is registered;

9 2. Require qualifications that are related to the lawful
10 occupation for which an individual is certified;

11 3. Verify an individual's qualifications before certification and
12 periodically verify that the certified individual remains eligible for
13 certification;

14 4. Require a privately certified individual to prominently
15 display the private certification and make available materials about
16 the qualifications and other factors required for the private
17 certification on request; and

18 5. Have at least fifty privately certified individuals in active
19 practice in the United States after one year of applying for
20 registration with the Secretary of State of this state.

21 D. A participating private certifying organization may require
22 individuals it certifies to obtain and maintain a bond for liability
23 that is related to the practice of the individual's privately
24 certified lawful occupation.

1 E. A participating private certification organization may require
2 a privately certified individual to pay initial and ongoing fees.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4500.3 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 RIGHT TO ENGAGE IN A LAWFUL OCCUPATION

7 A. An individual who is certified by a participating private
8 certifying organization may engage in the lawful occupation for which
9 that individual is privately certified notwithstanding any other
10 occupational regulation enacted by the government.

11 B. The government shall not prohibit or impose a penalty, fine
12 or fee on an individual who is certified by a participating private
13 certifying organization for engaging in a lawful occupation in
14 compliance with this act.

15 SECTION 5. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4500.4 of Title 59, unless there
17 is created a duplication in numbering, reads as follows:

18 SIGN; VIOLATION; CLASSIFICATION

19 A. An individual who is certified by a participating private
20 certifying organization and who engages in a lawful occupation for
21 which the government has otherwise enacted an occupational regulation
22 must prominently display a sign with lettering that is at least one
23 inch in height stating that (1) the government licenses the service;
24 (2) the individual is not licensed by the government, (3) the

1 individual is privately certified by ____ (the name of the private
2 certifying organization), and (4) the contact information of the
3 private certification organization.

4 B. An individual who is certified by a participating private
5 certifying organization and who is not licensed, registered or
6 certified by the government shall not use the term "licensed,"
7 "certified" or "registered" to describe the individual's credential or
8 any words, titles, abbreviations or letters that would induce a
9 reasonably knowledgeable consumer of such services to believe the
10 privately certified individual using them is occupationally regulated
11 by the government.

12 C. An individual who is certified by a participating private
13 certifying organization may use the term "privately certified" to
14 describe the individual's credentials or as part of a title or
15 designation.

16 SECTION 6. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4500.5 of Title 59, unless there
18 is created a duplication in numbering, reads as follows:

19 FALSE CLAIM; VIOLATION; CLASSIFICATION

20 An individual who knowingly and falsely claims to be privately
21 certified pursuant to this act is subject to penalties under the
22 state's deceptive trade practices act.
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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4500.6 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 ENFORCEMENT

5 A. The Secretary of State shall enforce the provisions of this act
6 and has the authority to terminate the government registration of the
7 participating private certifying organization for failure to continue
8 to meet the requirements in subsection C of Section 3 of this act.

9 B. The participating private certifying organization that
10 continues to operate ninety (90) days after failing to meet the
11 requirements in subsection C of Section 3 of this act is subject to
12 the Oklahoma Deceptive Trade Practices Act.

13 C. Except to the extent that this act requires a privately
14 certified individual to possess qualifications established by the
15 government to perform a lawful occupation, this act does not limit
16 the government's authority to enact and enforce laws relating to:

- 17 1. A business license or permit, facility license, building
18 permit or land use regulation; and
- 19 2. Public health, safety, and environmental regulations through
20 the enforcement of regulations other than occupational licenses
21 including the sale and use of substances that endanger public health
22 and safety if mishandled or improperly dispensed including chemicals,
23 explosives and pharmaceuticals.

24 D. Nothing in this act shall be construed to:

1 1. Change the government's sole authority to require an
2 individual to obtain and maintain a government-issued driver license
3 and related insurance for personal or commercial vehicle use;

4 2. Limit damages in a private civil action against an individual
5 who is privately certified or who knowingly and falsely claims to be
6 privately certified;

7 3. Require a private party or the government to do business with
8 an individual who is not licensed, certified or registered with the
9 government;

10 4. Create a cause of action against a private party or the
11 government;

12 5. Allow for private certification of occupations regulated by
13 the federal government or required by federal law to be
14 occupationally licensed by the government;

15 6. Require a private certification organization to participate
16 and register with the government under this chapter;

17 7. Increase the authority of the government to regulate
18 nonparticipating private certification organizations;

19 8. Require doctors and other medical professional to obtain
20 operating room privileges or other credentials from the state,
21 hospitals or clinics to perform surgery or an operation; or

22 9. Reduce the authority of the Oklahoma Supreme Court to regulate
23 who may issue subpoenas, serve discovery and litigate cases before
24 state judges.

1 SECTION 8. This act shall become effective November 1, 2021.

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