
A BILL FOR AN ACT

RELATING TO THE REGULATORY LICENSING REFORM ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Regulatory Licensing Reform Act, Act
2 70, Session Laws of Hawaii 1977, was enacted in response to a
3 growing concern over the rapid proliferation of professional and
4 vocational licensing boards and commissions, and the perception
5 that these served the interests of the regulated industry,
6 rather than the interests of the consumer. Act 70 set forth
7 criteria to be used to evaluate and determine whether existing
8 regulatory programs should be modified or discontinued. The
9 criteria were codified in section 26H-2, Hawaii Revised
10 Statutes.

11 Under Act 70, each chapter regulating a profession or
12 vocation was scheduled for repeal. The statutorily-created
13 board or commission of the regulated profession or vocation was
14 required to assess whether its statutory program complied with
15 the section 26H-2 criteria, and to submit a report to the
16 legislature one year prior to the applicable repeal date. New
17 legislation was required to continue regulatory programs
18 reviewed under Act 70.



1 In 1979, the review component of this automatic review and
2 repeal law was amended to require that assessments be performed
3 by the auditor. This amendment was made to "better provide for
4 consumer interests. . . [and] a more objective viewpoint in
5 assessing the value of the particular regulation under review."
6 Recognizing that automatic review of every existing professional
7 or vocational regulatory program consumed a disproportionate
8 amount of the auditor's limited resources, in 1994 the
9 legislature restricted automatic review and repeal to
10 professional or vocational regulatory programs enacted after
11 July 1, 1994. The legislature further limited this procedure in
12 1996 to regulatory programs actually listed in section 26H-4,
13 Hawaii Revised Statutes.

14 The legislature finds that existing policies and procedures
15 amplify the influence of special interests and should be re-
16 examined to more fairly represent the interest of the general
17 public. In addition, the legislature finds that the question of
18 whether the activities of a professional or vocational
19 regulatory program further the policies that have been
20 identified by the legislature as justifying regulation is a
21 question best resolved through an assessment performed by an
22 objective and informed agency like the auditor. Once the



1 question is resolved, if state maintenance of the program is not
2 justified, it should be discontinued without delay.

3 The purpose of this Act is to provide a mechanism for the
4 expeditious removal of unnecessary professional and vocational
5 regulatory programs that serve the interests of regulated
6 industry rather than the interests of the consumer.

7 SECTION 2. Chapter 26H, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§26H- Evaluation of regulatory programs; immediate
11 termination. Regardless of whether a professional or vocational
12 regulatory program is listed in section 26H-4, upon request by
13 the legislature by concurrent resolution, the auditor shall
14 evaluate the program according to the policies listed in section
15 26H-2. If the auditor finds that the regulatory program should
16 be eliminated based at least on one of the factors listed in
17 section 26H-2(8), the agency or department regulating the
18 profession or occupation, including the department of commerce
19 and consumer affairs, shall immediately terminate the regulatory
20 program, and all operations of the program shall cease in the
21 absence of enacted legislation expressly prohibiting termination



1 of the program and absent any contrary action taken by the
2 legislature."

3 SECTION 3. Section 26H-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§26H-2 Policy.** The legislature hereby adopts the
6 following policies regarding the regulation of certain
7 professions and vocations:

8 (1) The regulation and licensing of professions and
9 vocations shall be undertaken only where reasonably
10 necessary to protect the health, safety, or welfare of
11 consumers of the services; the purpose of regulation
12 shall be the protection of the public welfare and not
13 that of the regulated profession or vocation;

14 (2) Regulation in the form of full licensure or other
15 restrictions on certain professions or vocations shall
16 be retained or adopted when the health, safety, or
17 welfare of the consumer may be jeopardized by the
18 nature of the service offered by the provider;

19 (3) Evidence of abuses by providers of the service shall
20 be accorded great weight in determining whether
21 regulation is desirable;



- 1 (4) Professional and vocational regulations [~~which~~] that
2 artificially increase the costs of goods and services
3 to the consumer shall be avoided except in those cases
4 where the legislature determines that this cost is
5 exceeded by the potential danger to the consumer;
- 6 (5) Professional and vocational regulations shall be
7 eliminated when [~~the legislature determines that~~] they
8 [~~have no further benefits to~~] no longer benefit
9 consumers;
- 10 (6) Regulation shall not unreasonably restrict entry into
11 professions and vocations by all qualified persons;
12 [~~and~~]
- 13 (7) Fees for regulation and licensure shall be imposed for
14 all vocations and professions subject to regulation;
15 provided that the aggregate of the fees for any given
16 regulatory program shall not be less than the full
17 cost of administering that program[~~-~~]; and
- 18 (8) Professional and vocational regulation shall not be
19 imposed or shall be eliminated if:
- 20 (A) Regulatory objectives may be undertaken by the
21 industry to be regulated, and governmental



Report Title:

Professional and Vocational Regulation; Automatic Sunset

Description:

Amends regulatory licensing reform act to prohibit redundant or unnecessary professional or vocational regulatory programs. Requires Department of Commerce and Consumer Affairs to sunset a program that the auditor finds redundant or unnecessary and where there is no contrary action by the legislature.

