

Introduced: 5/13/80  
Referred: Commerce and  
Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE  
BY REQUEST

2 HOUSE BILL NO. 1033

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to review of public need for regula-  
7 tion of occupations."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 08.03 is amended by adding new sections to read:

10 CHAPTER 03. TERMINATION, CONTINUATION AND REESTABLISHMENT  
11 OF REGULATORY BOARDS, AND EVALUATION OF NEED FOR REGULATION.

12 ARTICLE 2. EVALUATION OF NEED FOR REGULATION.

13 Sec. 08.03.040. EVALUATION OF NEED FOR REGULATION OF AN OCCUPATION.

14 (a) Upon the request of practitioners of an occupation or members of  
15 the public, the department shall evaluate an occupation which is not  
16 regulated under this title to determine whether the occupation should be  
17 regulated.

18 (b) At the discretion of the commissioner, the department may  
19 evaluate an occupation which is not regulated under this title to deter-  
20 mine whether the occupation should be regulated.

21 Sec. 08.03.050. HEARINGS. As part of an evaluation of an occupa-  
22 tion, the department shall hold hearings and invite practitioners of the  
23 occupation and members of the public to comment. If persons engaged in  
24 an occupation are seeking to be regulated, the department shall request  
25 the following information from them:

26 (1) a definition of the problems which create a need for  
27 regulation of the occupation;

28 (2) the nature of potential harm to the public if the occupa-  
29 tion is not regulated;

1 (3) the extent to which there is a threat or existing harm to  
2 the public health, safety, or economic well-being;

3 (4) the extent to which consumers of services provided by the  
4 occupation will benefit from a method of regulation which identifies  
5 competent practitioners of the occupation;

6 (5) the extent to which the occupation calls for independent  
7 judgment and the exercise of special skills or training which makes it  
8 difficult for consumers to determine the quality of service being offered  
9 by particular practitioners;

10 (6) the extent to which practitioners of the occupation are  
11 currently supervised through existing law or regulation;

12 (7) efforts made by practitioners of the occupation to deal  
13 with the problem which create a need for regulation of the occupation  
14 and the results of the efforts;

15 (8) alternatives to regulation;

16 (9) the extent to which regulation is expected to restrict  
17 entry into the occupation;

18 (10) whether the occupation is regulated in other jurisdic-  
19 tions;

20 (11) the extent to which the problems present in the occupa-  
21 tion can reasonably be expected to be eliminated by regulation; and

22 (12) the system of regulation proposed.

23 Sec. 08.03.060. REPORTS. After the completion of an evaluation  
24 under AS 08.03.040, the department shall submit to the presiding officers  
25 of both houses of the legislature a report containing

26 (1) findings as to whether

27 (A) regulation of an occupation is needed to protect the  
28 public health, safety, and welfare;

29 (B) high standards of professional competence are cur-

1                   rently upheld by practitioners of an occupation;

2                   (C) the public is generally able to determine the compe-  
3                   tence of practitioners of an occupation;

4                   (D) professional associations currently provide adequate  
5                   protection against incompetent practitioners;

6                   (E) existing laws and regulations are adequate to protect  
7                   the public from incompetent practitioners;

8                   (F) practitioners of an occupation perform a service  
9                   which may affect third parties relying on expert skill and train-  
10                  ing; and

11                  (G) characteristics of an occupation make it impractical  
12                  to regulate;

13                  (2) summation of hearings conducted and comments presented;

14                  (3) alternatives to regulation considered, including possible  
15                  statutory changes;

16                  (4) recommendations, including details of any proposed system  
17                  of regulation.

18                  Sec. 08.03.070. RECOMMENDATIONS. (a) Before the department may  
19                  recommend that an occupation be regulated under this title, it must  
20                  determine that

21                  (1) the unregulated practice of the occupation can harm or  
22                  endanger the public health, safety and welfare and that the potential  
23                  for harm is not remote;

24                  (2) the occupation has qualities that distinguish it from  
25                  other unregulated occupations and which make regulation appropriate;

26                  (3) the public will benefit from regulation of the occupa-  
27                  tion; and

28                  (4) the public cannot be protected from incompetent practi-  
29                  tioners of the occupation by other means.

1 (b) The department may recommend changes in existing law to pro-  
2 vide greater opportunity for civil actions or criminal prosecutions in  
3 order to protect the public from incompetent practitioners of an occupa-  
4 tion.

5 (c) The department may recommend changes in regulations of exist-  
6 ing boards or agencies to impose inspection procedures or otherwise  
7 impose controls on the occupation.

8 Sec. 08.03.080. APPLICABILITY OF THE ADMINISTRATIVE PROCEDURE ACT.  
9 The Administrative Procedure Act (AS 44.62) applies to proceedings held  
10 under this chapter.

11 Sec. 08.03.090. DEFINITIONS. In this chapter

12 (1) "department" means the Department of Commerce and Economic  
13 Development;

14 (2) "commissioner" means the commissioner of commerce and  
15 economic development.

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