

HB

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HB 222: An Act relating to occupational licensing and providing for an effective date.

The House Labor and Commerce committee submitted this legislation at the request of the Department of Commerce and Economic Development. The department is interested in streamlining procedures for the boards regulated by the Division of Occupational Licensing under the Centralized Licensing Code AS 08.01.

Because each of these boards has been created by separate legislative action, there exists no standardization in board membership, terms of office, duties, renewal dates, and enforcement powers. The purpose of this bill is to provide that standardization.

There are three very significant changes that this bill institutes. The first is the standardization of license renewal. Under the provisions of this bill, all licenses would be renewed on a biennial basis. Last year, the Legislature authorized the division to set fees for licenses at rates that would make occupational licensing self-supporting. However, with eight boards renewing their licenses on a quadrennial basis, the division can only be self-supporting over the average of four years. Biennial renewal will allow the division to be self-supporting on an annual basis.

The second major change alters the disciplinary powers of the boards. Again as each board was created by separate legislative action, there is a variance in the powers that the individual boards have. This bill would standardize and increase the sanctions boards can utilize in disciplining incompetent or dishonest professionals. New provisions added which are not currently utilized by boards are:

- (a)(5) require a licensee to submit to peer review
- (8) impose a civil fine not to exceed \$5,000.00
- (e) A board may accept the voluntary surrender of a license

These provisions will increase the enforcement capability of the boards and provide less expensive and time-consuming means of disciplining licensees when license revocation or suspension is not warranted.

The third change gives the department the authority to issue citations for unlicensed activity. Currently, the department can issue Cease and Desist Orders administered in accordance with the Administrative Procedure Act. This is a time-consuming and expensive process and it is not uncommon for the process to drag on for a year. In FY 86, a total of 19 Cease and Desist Orders were issued. The citations will require a prompt mandatory court appearance and penalty fees for each continued day of unlicensed activity.

SECTIONAL ANALYSIS
HB 222

Section 1: Amends AS 05.05.010(a) to specify that the term of office for athletic commission members shall be overlapping four-year terms instead of two-year terms. Because the athletic commission is created under Title 5, this amendment will bring the term of office requirement in compliance with the term of office requirement under AS 08.

Section 2: Amends AS 08.01.020 to require that all appointed board members serve at the pleasure of the Governor.

This section makes the statute permissive for the Governor to designate the chair of the board. The amendments further identify officers of the board as the chair and secretary.

Also, this section provides boards with the authority to specify by regulation that unexcused absences from meetings are cause for removal.

Section 3: Adds a new section to AS 08.01 governing terms of office for all board members. This section provides that members be appointed for staggered terms of four years and serve until a successor is appointed, and limits service to all or part of two successive terms.

Section 4: Makes miscellaneous housekeeping amendments to AS 08.01.050(a), Administrative Duties of Department. This section makes further amendments to subsection (19) which make the department responsible to provide inspection, enforcement and investigative services for all occupations listed in AS 08.01.010 instead of listing each chapter individually. In addition, this section adds a new provision (20) which requires the department to retain and safeguard the official seal of a board. In the past, board members retained the seal and used the seal to act in an official capacity without concurrence of the entire board or the state.

Section 5: Makes miscellaneous housekeeping amendments to AS 08.01.070, Administrative Duties of Boards. In addition, this section adds the following responsibilities to each board:

- forward a draft of the minutes of its proceedings to the department within 20 days after the proceedings;
- forward examination results to the department within 20 days after an examination is given;
- forward agenda items for meetings and other proceedings at least 15 days prior to the event; and

- submit a performance report to the department before the end of the fiscal year listing accomplishments, activities and needs. Some licensing occupations already require the performance report in their individual statutes. This amendment will standardize the requirement for all licensed occupations.

- Section 6: Adds a new section to AS 08.01 regarding disciplinary powers of boards. This section provides alternatives to disciplinary powers which may be used by a board singly or in combination. This section will standardize disciplinary powers for all licensing boards. Individual licensing statutes have disciplinary powers but none as comprehensive as this section. Three new alternatives included in this section which are not in any of the existing provisions are: 1) peer review; 2) imposition of a civil fine not to exceed \$5,000; and 3) voluntary surrender of a license. These provisions increase the board's authority to discipline unethical or dishonest licensees.
- Section 7: Requires all licenses to be renewed biennially on dates set by the department with approval of the respective board.
- Section 8: Reenacts AS 08.01.100(b) authorizing the department to establish a delayed penalty fee in regulations with the concurrence of the appropriate board.
- Section 9: Adds two new provisions to AS 08.01.100 requiring that continuing education requirements be met before a license can be renewed, and that a license which has lapsed for five or more years cannot be renewed. This will require the individual to reapply for a new license.
- Section 10: This section provides the department the authority and establishes the procedure to issue citations to individuals who violate the licensing statutes.
- Section 11: Amends AS 08.02.020, Limitation of Liability for Members of Licensing Boards, by adding peer review committees. The amendments to this section will allow peer review committees the same protection from civil action as board members when serving in the performance of their duty.
- Section 12: Amends the CPA statute, AS 08.04.040, to repeal reference to three-year terms of office.

- Section 13: Amends the barber and hairdresser statute, AS 08.13.100(a), to repeal reference to duration of the renewal period. This will then allow the requirement for the renewal period to be established under AS 08.01.
- Section 14: Amends the construction contractor statute, AS 08.18.031(a), to repeal reference to the date of the license expiration.
- Section 15: Amends the dental hygienist statute, AS 08.32.071, to repeal reference to the duration of the renewal period.
- Section 16: Amends the dental hygienist statute, AS 08.32.171(c), to repeal the authority allowing the board to summarily suspend a license. This provision is covered under the new disciplinary powers section in AS 08.01.
- Section 17: Amends the dental statute, AS 08.36.020, to repeal reference to appointments of board members and duration of members' terms of office.
- Section 18: Amends the dental statute, AS 08.36.025, to repeal causes for removal of board members.
- Section 19: Amends the dental statute, AS 08.36.250(a), to repeal reference relating to the duration of the certificate.
- Section 20: Amends the dental statute, AS 08.36.320(c), to repeal the authority allowing the board to summarily suspend a license. This provision is covered under the new disciplinary powers section in AS 08.01.
- Section 21: Amends the mortuary science statute, AS 08.42.020(b), to repeal reference to a "biennial" licensing period.
- Section 22: Amends the mortuary science statute, AS 08.42.020(c), to repeal reference to an "annual" licensing period.
- Section 23: Amends the hearing aid dealer statute, AS 08.55.020(b), to repeal reference to the duration of a license.
- Section 24: Amends the marine pilot statute, AS 08.62.120, to repeal references relating to the duration of a license.
- Section 25: Amends the dispensing optician statute, AS 08.72.020, to repeal reference to the duration of members' terms of office.
- Section 26: Amends the dispensing optician statute, AS 08.72.020, to repeal reference to appointments of board members and duration of the licensing period.
- Section 27: Amends the dispensing optician statute, AS 08.72.040, to repeal reference to appointments of board members and duration of the licensing period.

- 30 Section 28: Amends the board of pharmacy statute, AS 08.80.020, to
31 repeal reference to duration of the licensing period,
32 appointments and terms of office for board members.
- 33 Section 29: Amends the physical therapy statute, AS 08.84.010(a), to
34 repeal references to duration of the licensing period,
35 appointments and terms of office for board members.
- 36 Section 30: Amends the physical therapy statute, AS 08.84.010(b), to
37 repeal the board's authority to discipline a licensee to
38 limit or condition a license. This provision is covered
39 under the new disciplinary powers section in AS 08.01.
- 40 Section 31: Amends the physical therapy statute, AS 08.84.100(b), to
41 repeal reference to reinstatement of lapsed licensees and
42 delinquent renewal fees.
- 43 Section 32: Adds a new section regarding terms of office to the Real
44 Estate Commission statutes under AS 08.88.
- 45 Section 33: Amends the concert promoter statute, AS 08.92.010, to repeal
46 reference to a "biennial" license period.
- 47 Section 34: Amends the concert promoter statute, AS 08.92.010, to repeal
48 reference to a "biennial" license period.
- 49 Section 35: Provides a transition provision which will allow current
50 board members to continue their terms without being affected
51 by this act. In addition, the transition provision allows
52 current licenses to remain valid until the expiration date
53 without being affected by the new biennial licensing period
54 established by this act.
- 55 Section 36: Repeals provisions throughout the various licensing statutes
56 regarding appointments, terms of office, duration of
57 license, and disciplinary sanctions. The repealers also
58 include the provision under the centralized licensing act,
59 AS 08.01.050(c), to hire an investigator primarily for the
60 medical board.
- 61 Section 37: Requires the act to take effect immediately in accordance
62 with AS 01.10.070(c).

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STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

No. 2

REQUEST: _____

Bill Version: CSHB 222(Fin)
Publish Date: HOUSE 4/29/87

Revision Date: _____

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing

Title: An Act relating to occupational licensing; and providing for an effective date.

Sponsor: House Labor & Commerce

Components: All

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

(See attached)

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Division: Occupational Licensing

Date: 4/3/87

Approved by Commissioner: Michael Smith

Date: _____

Agency: Commerce and Economic Development

Distribution (by preparer):

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- Impacted Agency(ies)
- Senate Secretary

A M E N D M E N T

Offered in the SENATE

By Fahrenkamp

TO: CSHB 222 (Finance)

Page 3, following line 22

Insert a new bill section to read:

"* Sec. 5. AS 08.01.065(c) is repealed and reenacted to read:

(c) A fee established under this section must reflect, but may not exceed, the actual costs to the department of the activity for which the fee is charged except that the department may establish a fee that is less than the cost of the activity for which the fee is charged if the department determines that it is not reasonable to impose the full cost of the activity on the applicant or licensee."

Renumber the following bill sections accordingly.

Page 15, line 5:

Delete "1 - 34 and 36"

Insert "1 - 35 and 37"

Page 15, line 10:

Delete "1 - 34 and 36"

Insert "1 - 35 and 37"