

HB 1340 - AS INTRODUCED

2026 SESSION

26-2943

09/06

HOUSE BILL **1340**

AN ACT limiting occupational regulations to those demonstrably necessary to achieve public health, safety, or welfare objectives.

SPONSORS: Rep. Slottje, Hills. 13; Rep. McFarlane, Graf. 18

COMMITTEE: Executive Departments and Administration

---

ANALYSIS

This bill sets restrictions on the use of occupational regulations, requires all agencies to review all of their rules to ensure compliance, and sets special standards for the enforcement of these restrictions.

-----

Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty-Six*

AN ACT                    limiting occupational regulations to those demonstrably necessary to achieve public health, safety, or welfare objectives.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 Short Title. This act may be known as and cited to as the "Right to Earn a Living Act."

2            2 Findings and Purpose. The legislature hereby finds and declares that:

3                    I. The right of individuals to pursue a chosen business or profession, free from arbitrary or  
4 excessive government interference, is a fundamental civil right.

5                    II. The freedom to earn an honest living traditionally has provided the surest means for  
6 economic mobility.

7                    III. In recent years, many regulations of entry into businesses and professions have  
8 exceeded legitimate public purposes and have had the effect of arbitrarily limiting entry and  
9 reducing competition.

10                    IV. The burden of excessive regulation is borne most heavily by individuals outside the  
11 economic mainstream, for whom opportunities for economic advancement are curtailed.

12                    V. It is in the public interest:

13                            (a) To ensure the right of all individuals to pursue legitimate entrepreneurial and  
14 professional opportunities to the limits of their talent and ambition;

15                            (b) To provide the means for the vindication of this right; and

16                            (c) To ensure that regulations of entry into businesses and professions are demonstrably  
17 necessary and carefully tailored to legitimate health, safety, and welfare objectives.

18            3 New Section; Administrative Procedure Act; Purpose of Rules. Amend RSA 541-A by inserting  
19 after section 3-b the following new section:

20                    541-A:3-c Purpose of Rules.

21                            I. As used in this section:

22                                    (a) "Agency" shall be broadly construed to include the state, all units of state  
23 government, any county, city, town, or political subdivision of this state, and any branch,  
24 department, division, office, or agency of state or local government.

25                                    (b) "Occupational regulations" shall include any law, ordinance, regulation, rule, policy,  
26 fee, condition, test, permit, administrative practice, or other provision relating in a market, or the  
27 opportunity to engage in any occupation or profession. For the purpose of this section, an  
28 occupational regulation does not include an "occupational license."

1 (c) "Occupational license" is a nontransferable and exclusive authorization in law in  
2 which the legislature establishes the personal qualifications necessary to engage in any occupation  
3 or profession.

4 (d) "Personal qualifications" are criteria related to an individual's personal background  
5 and characteristics including completion of an approved educational program, satisfactory  
6 performance on an examination, work experience, other evidence of attainment of requisite skills or  
7 knowledge, moral character, criminal history and completion of continuing education.

8 (e) "Public service restrictions" shall include any law, ordinance, regulation, rule, policy,  
9 fee, condition, test, permit, or other administrative practice, with or without the support of public  
10 subsidy and/or user fees.

11 (f) "Welfare" shall be narrowly construed to encompass protection of members of the  
12 public against fraud or harm. This term shall not encompass the protection of existing businesses or  
13 agencies, whether publicly or privately owned, against competition.

14 (g) "Subsidy" shall include taxes, grants, user fees, or any other funds received by or on  
15 behalf of an agency.

16 II. In adopting any rules under this chapter, all occupational regulations with respect to  
17 businesses and professions shall be limited to those demonstrably necessary and carefully tailored to  
18 fulfill legitimate public health, safety, or welfare objectives.

19 III. All public service restrictions shall be limited to those demonstrably necessary and  
20 carefully tailored to fulfill legitimate public health, safety, or welfare objectives.

21 IV.(a) Within one year of the effective date of this act, every agency shall conduct a  
22 comprehensive review of all occupational regulations within their jurisdictions, and for each such  
23 occupational regulation it shall:

24 (1) Articulate with specificity the public health, safety, or welfare objective served by  
25 the regulation, and

26 (2) Articulate the reason why the regulation is necessary to serve the specified  
27 objective.

28 (b) To the extent the agency finds any regulation that does not satisfy the standard set  
29 forth in paragraph II, it shall:

30 (1) Repeal the occupational regulation or modify the occupational regulation to  
31 conform with the standard of paragraph II if such action is within the agency's authority to do so; or

32 (2) Recommend to the legislature actions necessary to repeal or modify the  
33 occupational regulation to conform to the standard of paragraph II if such action is not within the  
34 agency's authority.

35 (c) Within 15 months following enactment, each agency shall report to the legislature on  
36 all actions taken to conform with this section.

1 V.(a) Notwithstanding any other provision of law, any person may petition any agency to  
2 repeal or modify any occupational regulation within its jurisdiction.

3 (b) Within 90 days of a petition filed under subparagraph V(a), the agency shall either  
4 repeal the occupational regulation, modify the regulation to achieve the standard set forth in  
5 paragraph II, or state the basis on which it concludes the regulation conforms with the standard set  
6 forth in paragraph II.

7 (c) Notwithstanding any other provision of law, any person may petition any agency to  
8 repeal or modify a public service restriction within its jurisdiction.

9 (d) Within 90 days of a petition filed under subparagraph V(c), the agency shall state the  
10 basis on which it concludes the public service restriction conforms with the standard set forth in  
11 paragraph III.

12 VI.(a) Notwithstanding any other provision of law, any time after 90 days following a  
13 petition filed pursuant to paragraph V that has not been favorably acted upon by the agency, the  
14 person filing a petition challenging an occupational regulation or public service restriction may file  
15 an action in the superior court.

16 (b) With respect to the challenge of an occupational regulation, the plaintiff shall prevail  
17 if the court finds by a preponderance of evidence that the challenged occupational regulation on its  
18 face or in its effect burdens the creation of a business, the entry of a business into a particular  
19 market, or entry into a profession or occupation; and either:

20 (1) That the challenged occupational regulation is not demonstrably necessary and  
21 carefully tailored to fulfill legitimate public health, safety, or welfare objectives; or

22 (2) Where the challenged occupational regulation is necessary to the legitimate  
23 public health, safety, or welfare objectives, such objectives can be effectively served by regulations  
24 less burdensome to economic opportunity.

25 (c) With respect to the challenge of a public service restriction, the plaintiff shall prevail  
26 if the court finds by a preponderance of the evidence that on its face or in its effect either:

27 (1) That the challenged public service restriction is not demonstrably necessary and  
28 carefully tailored to fulfill legitimate public health, safety, or welfare objectives; or

29 (2) Where the challenged public service restriction is necessary to fulfill legitimate  
30 public health, safety, or welfare objectives, such objectives can be effectively served by restrictions  
31 that allow greater private participation.

32 (d) Upon a finding for the plaintiff, the court shall enjoin further enforcement of the  
33 challenged occupational regulation or public service restriction, and shall award reasonable  
34 attorney's fees and costs to the plaintiff.

35 VII. This section shall preempt all inconsistent rules, regulations, codes, ordinances and  
36 other laws adopted by a county, city, town or other political subdivision of this state regarding the

**HB 1340 - AS INTRODUCED**

**- Page 4 -**

1 right of individuals to pursue a chosen business or profession, and all such rules, regulations, codes,  
2 ordinances, and other laws are declared null and void.

3       4 Effective Date. This act shall take effect 60 days after its passage.