

REFERENCE TITLE: professions; occupations; initial regulation

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1502

Introduced by
Senators Gorman, Blendu: Gould, Harper, Johnson; Representatives Adams,
Biggs, Crandall, Groe, Nichols, Pearce

AN ACT

AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 43; RELATING
TO REGULATION OF PROFESSIONS AND OCCUPATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 32, Arizona Revised Statutes, is amended by adding
3 chapter 43, to read:

4 CHAPTER 43

5 REGULATION OF PROFESSIONS AND OCCUPATIONS

6 ARTICLE 1. GENERAL PROVISIONS

7 32-4301. Regulating professions and occupations; criteria

8 A. A PROFESSION OR OCCUPATION SHALL NOT BE REGULATED EXCEPT FOR THE
9 EXCLUSIVE PURPOSE OF PROTECTING THE PUBLIC INTEREST. EXCEPT AS PROVIDED IN
10 CHAPTER 31 OF THIS TITLE, ALL PROPOSED LEGISLATION TO REGULATE A PROFESSION
11 OR OCCUPATION FOR THE FIRST TIME SHALL BE REVIEWED ACCORDING TO THE CRITERIA
12 PRESCRIBED IN SUBSECTION B.

13 B. A PROFESSION OR OCCUPATION SHALL BE REGULATED BY THIS STATE ONLY IF
14 ALL OF THE FOLLOWING APPLY:

15 1. AN UNREGULATED PRACTICE CAN CLEARLY HARM OR ENDANGER THE PUBLIC
16 HEALTH, SAFETY OR WELFARE.

17 2. THE ACTUAL OR ANTICIPATED PUBLIC BENEFIT OF THE REGULATION CLEARLY
18 EXCEEDS THE COSTS IMPOSED ON CONSUMERS, BUSINESSES AND INDIVIDUALS.

19 3. THE PUBLIC NEEDS AND CAN REASONABLY BE EXPECTED TO BENEFIT FROM AN
20 ASSURANCE OF INITIAL AND CONTINUING PROFESSIONAL ABILITY.

21 4. THE PUBLIC CANNOT BE EFFECTIVELY PROTECTED BY OTHER MEANS IN A LESS
22 RESTRICTIVE MANNER, INCLUDING SIMPLE REGISTRATION, PRIVATE CERTIFICATION OR
23 OTHER ALTERNATIVES.

24 C. AFTER EVALUATING THE CRITERIA PRESCRIBED IN SUBSECTION B, THE
25 LEGISLATURE SHALL EXAMINE DATA FROM MULTIPLE SOURCES AND LOOK FOR EVIDENCE OF
26 ACTUAL HARM TO THE PUBLIC RELATED TO THE INDUSTRY BEING CONSIDERED FOR
27 REGULATION. THE EVIDENCE SHALL INCLUDE INDUSTRY ASSOCIATION DATA, FEDERAL,
28 STATE AND LOCAL GOVERNMENT DATA, BUSINESS REPORTS, COMPLAINTS TO THE
29 RESPECTIVE STATE LAW ENFORCEMENT OR CONSUMER AFFAIRS DIVISIONS OR THE BETTER
30 BUSINESS BUREAU AND DATA FROM RECIPROCAL AGENCIES IN OTHER STATES WITH AND
31 WITHOUT SIMILAR LAWS AND RULES.

32 D. IF THE LEGISLATURE FINDS THAT IT IS NECESSARY TO REGULATE A
33 PROFESSION OR OCCUPATION NOT PREVIOUSLY REGULATED BY LAW, THE REGULATION
34 SHALL NOT BE IMPOSED TO PROTECT A DISCRETE INTEREST GROUP FROM ECONOMIC
35 COMPETITION.

36 E. THE LEGISLATURE MAY HOLD HEARINGS TO EVALUATE THE CRITERIA AND
37 EXAMINE THE DATA AND EVIDENCE PRESCRIBED IN SUBSECTIONS B AND C.

38 F. NOTWITHSTANDING ANY OTHER LAW, AN AGENCY THAT ISSUES NEW
39 PROFESSIONAL OR OCCUPATIONAL LICENSES, REGISTRATIONS OR CERTIFICATES SHALL
40 NOT HINDER THE REGULATED INDUSTRY THROUGH THE DELAYED AWARDING OF A LICENSE,
41 REGISTRATION OR CERTIFICATE.