

AN ACT concerning government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Regulatory Sunset Act is amended by changing Sections 2, 3, 5, 6, and 7 as follows:

(5 ILCS 80/2) (from Ch. 127, par. 1902)

Sec. 2. Findings and intent.

(a) The General Assembly finds that State government actions have produced a substantial increase in numbers of agencies, growth of programs and proliferation of rules and regulations and that the whole process developed without sufficient legislative oversight, regulatory accountability or a system of checks and balances. The General Assembly further finds that by establishing a system for the termination or continuation of such agencies and programs, it will be in a better position to evaluate the need for the continued existence of present and future regulatory bodies.

(b) It is the intent of the General Assembly:

(1) That no profession, occupation, business, industry or trade shall be subject to the State's regulatory power unless the exercise of such power is necessary to protect the public health, safety or welfare from significant and discernible harm or damage. The exercise of the State's

police power shall be done only to the extent necessary for that purpose.

(2) That the State shall not regulate a profession, occupation, industry, business or trade in a manner which will unreasonably and adversely affect either the competitive market or equitable access to quality jobs and economic opportunities.

(3) To provide systematic legislative review of the need for, and public benefits derived from, a program or function that licenses or otherwise regulates the initial entry into a profession, occupation, business, industry or trade by a periodic review and termination, modification, or continuation of those programs and functions.

(Source: P.A. 90-580, eff. 5-21-98.)

(5 ILCS 80/3) (from Ch. 127, par. 1903)

Sec. 3. Definitions. As used in this Act, unless the context clearly requires otherwise:

"Regulatory agency" or "agency" means any arm, branch, department, board, committee or commission of State government that licenses, supervises, exercises control over, or issues rules regarding, or otherwise regulates any trade, occupation, business, industry or profession.

"Personal qualifications" means criteria related to an individual's personal background and characteristics.

"Personal qualifications" may include one or more of the

following: completion of an approved educational program, satisfactory performance on an examination, work experience, apprenticeship, other evidence of attainment of requisite knowledge and skills, passing a review of the individual's criminal record, and completion of continuing education.

"Program" means a system to license or otherwise regulate the initial entry into a profession, occupation, business, industry, or trade by a periodic review and termination, modification, or continuation of the profession, occupation, business, industry, or trade.

"Scope of practice" means the procedures, actions, processes, and work that an individual may perform under an occupational regulation.

(Source: P.A. 90-580, eff. 5-21-98.)

(5 ILCS 80/5) (from Ch. 127, par. 1905)

Sec. 5. Study and report. The Governor's Office of Management and Budget shall study the performance of each regulatory agency and program scheduled for termination under this Act and report annually to the Governor the results of such study, including in the report an analysis of whether the agency or program restricts a profession, occupation, business, industry, or trade any more than is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage, and recommendations with respect to those agencies and programs the Governor's Office

of Management and Budget determines should be terminated, modified, or continued by the State. The Governor shall review the report of the Governor's Office of Management and Budget and in each even-numbered year make recommendations to the General Assembly on the termination, modification, or continuation of regulatory agencies and programs.

(Source: P.A. 94-793, eff. 5-19-06.)

(5 ILCS 80/6) (from Ch. 127, par. 1906)

Sec. 6. Factors to be studied. In conducting the study required under Section 5, the Governor's Office of Management and Budget shall consider, but is not limited to consideration of, the following factors in determining whether an agency or program should be recommended for termination, modification, or continuation:

(1) the full range and variety of practices and activities included in the scope of practice covered by extent to which the agency or program, including modes of practice or subspecialties that have developed since the last review has permitted qualified applicants to serve the public;

(2) (blank); the extent to which the trade, business, profession, occupation or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and the rendering of services;

(3) the extent to which the regulatory agency or

program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of State government, and any other circumstances, including budgetary, resource, and personnel matters;

(4) the extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates;

(5) the extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service;

(6) the extent to which persons regulated by the agency or under the program have been required to assess problems in their industry that affect the public;

(7) the extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority;

(8) the efficiency with which formal public complaints filed with the regulatory agency or under the program

concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of State government; ~~and~~

(9) the extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this Section; ~~-~~

(10) the extent to which there is evidence of significant and discernible harm arising from the full range and variety of practices and activities included in the scope of practice;

(11) the substance, content, and relevance of the personal qualifications required for entry into the trade, business, profession, occupation, or industry being regulated, including, but not limited to, as required hours of training, required curricula during the required hours, knowledge areas tested in examinations, and any updates that have been made since the last review to address changes in technology or modes of practice;

(12) the extent to which all the personal qualifications that the agency or program requires for individuals to enter the trade, business, profession, occupation, or industry being regulated are necessary to protect the public from significant and discernible harm, for all activities covered by the scope of practice;

(13) equity concerns arising from the personal qualifications, including:

(A) financial impact on aspiring licensees, including, but not limited to, (i) itemization of average costs of achieving personal qualifications; (ii) an assessment of average incomes of licensees; and (iii) numbers, monetary loss, and demographics of individuals who start but do not achieve personal qualifications or complete the application process;

(B) challenges for individuals from historically disadvantaged backgrounds in acquiring personal qualifications;

(C) barriers for individuals with records of interactions with the criminal justice system;

(D) evidence of challenges for individuals who do not speak English as their primary language; and

(E) geographic distribution of training sites and test sites; and

(14) the extent to which enforcement actions under the agency or program have addressed significant and discernible harms to the public as opposed to technical noncompliance with the requirements of the agency or program.

(Source: P.A. 94-793, eff. 5-19-06.)

(5 ILCS 80/7) (from Ch. 127, par. 1907)

Sec. 7. Additional criteria.

(a) In determining whether to recommend to the General Assembly under Section 5 the continuation of a regulatory agency or program or any function thereof, the Governor shall also consider the following criteria:

(1) whether the absence or modification of regulation would significantly harm or endanger the public health, safety or welfare;

(2) whether there is a reasonable relationship between the exercise of the State's police power and the protection of the public health, safety or welfare;

(3) whether there is another less restrictive method of regulation available which could adequately protect the public;

(4) whether the regulation has the effect of directly or indirectly increasing the costs of any goods or services involved, and if so, to what degree;

(5) whether the increase in cost is more harmful to the public than the harm which could result from the absence of regulation; and

(6) whether all facets of the regulatory process are designed solely for the purpose of, and have as their primary effect, the protection of the public.

(b) In making an evaluation or recommendation with respect to paragraph (3) of subsection (a), the Governor shall follow the following guidelines to address the following:

(1) Contractual disputes, including pricing disputes. The Governor may recommend enacting a specific civil cause of action in small-claims court or district court to remedy consumer harm. This cause of action may provide for reimbursement of the attorney's fees or court costs, if a consumer's claim is successful.

(2) Fraud. The Governor may recommend strengthening powers under the State's deceptive trade practices acts or requiring disclosures that will reduce misleading attributes of the specific good or service.

(3) General health and safety risks. The Governor may recommend enacting a regulation on the related process or requiring a facility license.

(4) Unclean facilities. The Governor may recommend requiring periodic facility inspections.

(5) A provider's failure to complete a contract fully or to standards. The Governor may recommend requiring the provider to be bonded.

(6) A lack of protection for a person who is not a party to a contract between providers and consumers. The Governor may recommend requiring that the provider have insurance.

(7) Transactions with transient, out-of-state, or fly-by-night providers. The Governor may recommend requiring the provider register its business with the Secretary of State.

(8) A shortfall or imbalance in the consumer's knowledge about the good or service relative to the provider's knowledge (asymmetrical information). The Governor may recommend enacting government certification.

(9) An inability to qualify providers of new or highly specialized medical services for reimbursement by the State. The Governor may recommend enacting a specialty certification solely for medical reimbursement.

(10) A systematic information shortfall in which a reasonable consumer of the service is permanently unable to distinguish between the quality of providers and there is an absence of institutions that provide guidance to consumers. The Governor may recommend enacting an occupational license.

(11) The need to address multiple types of harm. The Governor may recommend a combination of regulations. This may include a government regulation combined with a private remedy, including third-party or consumer-created ratings and reviews or private certification.

(Source: P.A. 97-813, eff. 7-13-12.)