



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: RA DPA 6-0-0-0 | 3rd Read DPA 52-6-1-0-1

Senate: FICO DPA 6-0-1-0 | 3rd Read DPA 28-0-2-0

Final Pass: 53-0-6-0-1

HB 2308: occupational licenses; criminal offense; prohibition

Sponsor: Representative Grantham, LD 14

Transmitted to the Governor

Overview

Regulates the basis by which an occupational or professional licensing board or health profession regulatory board may deny, suspend or revoke a license, registration or certificate for a prior criminal offense. Grants a person the right to file a petition with the Office of Administrative Hearings (OAH) if a person is denied a license based on a prior criminal offense that is unrelated to the profession.

History

The process for judicial review of an agency action allows the court to affirm, reverse, modify or vacate the agency action after reviewing the administrative record and evidence presented at the hearing. The court must affirm the agency action unless it is found that the agency's action is contrary to law, not supported by substantial evidence, arbitrary or an abuse of discretion. In a proceeding brought by the regulated party, the court shall decide the following, without deference to any previous determination that may have been made by the agency:

- 1) all questions of law, including the interpretation of a constitutional or statutory provision or a rule adopted by an agency; and
- 2) all questions of fact ([A.R.S. § 12-910](#)).

Statute requires state agencies to limit occupational regulations to those that are demonstrated to be necessary to specifically fulfill a concern for public health, safety or welfare. State law also prohibits agencies from denying a regular or provisional occupational license to someone who is otherwise qualified but who has been convicted of a drug offense. Occupational licenses include permits, certificates, approvals, registrations, charters or any similar form of permission that allows an individual to use an occupational title or perform work in a lawful occupation (A.R.S. §§ [41-1093.01](#), [41-1093.06](#)).

Provisions

1. Adds that an occupational or professional licensing board or a health profession regulatory board must determine by clear and convincing evidence at the time of the petition that the offense a person was convicted of substantially relates to the occupation or that the approval of a license, permit, certificate or other state recognition would pose a reasonable threat to public health and safety. (Sec. 1)
2. Specifies that an occupational or professional licensing board or a health profession regulatory board is prohibited from denying, suspending or revoking a license,

registration or certificate for an applicant's, licensee's, registrant's or certificate holder's prior criminal offense unless:

- a) the offense is substantially related to the occupation; or
 - b) approving or not imposing disciplinary action against the license, registration or certificate would pose a reasonable threat to public health and safety. (Sec. 2)
3. Allows an applicant, licensee, registrant or certificate holder to petition the OAH to request a review of a denial, suspension or revocation of a license, registration or certificate for a prior criminal offense. (Sec. 2)
 4. Specifies that the petition submitted to the OAH cannot exceed five double-spaced pages. (Sec. 2)
 5. Mandates that review hearings adhere to specified rules and procedures. (Sec. 2)
 6. Clarifies that article 10 of this chapter does not apply to reviews requested pursuant to this section. (Sec. 2)
 7. Instructs the OAH, on receipt of a properly submitted petition, to review the denial, suspension or revocation and independently determine whether the offense meets specified criteria. (Sec. 2)
 8. Requires each occupational or professional licensing board or health profession regulatory board to prominently post a notice of an individual's right to petition the OAH for review pursuant to this section on their website and on each license, registration or certificate denial. (Sec. 2)
 9. Clarifies that this act does not impact a person's right to petition an agency for a criminal record review or an agency's requirement to determine whether a person's criminal record disqualifies them from obtaining a license, permit, certificate or other state recognition. (Sec. 2)
 10. Defines *health profession regulatory board*, *reasonable threat* and *substantially related*. (Sec. 2)
 11. Makes technical and conforming changes. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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