

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

400Z0746

HOUSE BILL NO. 1319

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to adopt the Interstate Compact for the Temporary
2 Licensure of Professionals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 The Interstate Compact for the Temporary Licensure of Professionals is hereby enacted into
6 law and entered into with all other jurisdictions legally joining this compact, which is
7 substantially as follows:

SECTION I

PURPOSE

10 The purpose of this compact is to:

- 11 (1) Allow member states to expediently grant a temporary license to eligible licensees
12 moving to their state;
- 13 (2) Allow eligible licensees moving to a member state time to meet the licensure
14 requirements of the destination state while practicing their occupation; and
- 15 (3) Increase the mobility of professional licenses, safeguard the health and safety of the



1 public, and enhance the workforce in member states.

2 SECTION II

3 DEFINITIONS

4 Terms used in this compact mean:

5 (1) "Adverse action," any suspension, revocation, or other action taken by a licensing
6 authority that impacts the ability of a licensee to work including the licensee's
7 voluntary surrender of a license;

8 (2) "Applicant," a natural person who has submitted an application to a member state for
9 a temporary license;

10 (3) "Background check," a criminal background investigation or a national criminal
11 history record check, or both;

12 (4) "Destination state," the member state in which a temporary license is sought;

13 (5) "Member state," a state that has enacted this compact;

14 (6) "Military spouse," a person whose spouse is a member of the United States Armed
15 Forces on active duty and stationed in the destination state;

16 (7) "Professional license" or "license," any state credential issued by the executive
17 branch that authorizes a natural person to work in a given profession, which would
18 be unlawful without the authorization of a state licensing authority;

19 (8) "State," any state, commonwealth, district, or territory of the United States;

20 (9) "Temporary license," an unrestricted license granted by a member state to an eligible
21 professional through the process set forth in this compact;

22 (10) "Unrestricted license," a license that is not conditioned on that particular licensee's
23 agreement to limit the scope of his or her professional work or to engage in additional
24 requirements or protocols specific to that licensee.

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SECTION III

CONTENTS OF APPLICATION AND FEES

An application for a temporary license shall include the following:

- (1) The applicant's full name;
- (2) A list of all states in which the applicant holds a professional license; and
- (3) A statement by the applicant that he or she:
 - (a) Holds a valid and unrestricted license in a member state; and
 - (b) Is in good standing, as set forth in section IV, with every other state in which the applicant is licensed.

The licensing authority may request identifying information such as an applicant's date of birth, social security number, or state license number. The destination state's licensing authority may charge fees comparable to other fees charged by that licensing authority.

SECTION IV

ISSUANCE OR NON-ISSUANCE OF TEMPORARY LICENSE

An applicant seeking a temporary license shall submit a complete application to the licensing authority of the destination state. The licensing authority of the destination state, or its agent, shall issue the temporary license within thirty days of receiving a complete application unless it determines that the applicant:

- (1) Does not possess a valid and unrestricted license issued by a member state;
- (2) Is not in good standing in all states in which the applicant is licensed; or
- (3) Is ineligible due to a disqualifying record identified during a background check.

An applicant is considered to be in good standing with a state licensing authority if the applicant is not under active investigation, has not been the subject of an unfavorable determination in a disciplinary action two years prior to the date of the application, and has no

1 pending disciplinary actions before the authority. A licensing authority may only conduct a
2 background check if it is otherwise authorized to do so. Based on the results of a background
3 check, a licensing authority may find an applicant ineligible for a temporary license only if it
4 would similarly find an applicant for a regular license ineligible. A licensing authority may deny
5 an applicant's request for a temporary license if the licensing authority has previously taken
6 adverse action against the applicant. An applicant who fails to meet the necessary requirements
7 shall be issued a prompt ineligibility letter from the licensing authority of the destination state
8 or its agent. Any applicant found to be ineligible may appeal the determination pursuant to
9 chapter 1-26.

10 SECTION V

11 DUTIES OF MEMBER STATES

12 Upon request, each member state shall provide another member state with the following
13 information within ten days:

- 14 (1) Whether a licensee possesses a valid and unrestricted license; and
15 (2) Whether a licensee is in good standing as set forth in section IV.

16 Further, a destination state may notify a member state when the destination state grants a
17 temporary license based on an individual's licensure within that member state. If so notified, the
18 member state shall promptly inform the destination state if it takes adverse action against the
19 licensee.

20 SECTION VI

21 OPT OUT

22 Any member state may decline to afford reciprocity to active licensees from another member
23 state for a particular occupation by enacting legislation with specific findings that the
24 requirements for the licenses in the relevant member state are inadequate to protect the public

1 health and safety.

2 SECTION VII

3 TERMS OF TEMPORARY LICENSE

4 The temporary license shall be for a term of eighteen consecutive months unless the
5 applicant is a military spouse. If the applicant is a military spouse the temporary license shall
6 be for a term of two consecutive years. A temporary license is non-renewable except that any
7 member state may decide to make temporary licenses for any or all occupations renewable by
8 law. An individual holding a temporary license is authorized to work as a licensed professional
9 in the destination state consistent with all applicable laws and regulations of the destination state
10 and the licensure authority that issued the temporary license. A temporary license from a
11 destination state only authorizes work as a licensed professional within that state, and does not
12 create, eliminate, or otherwise affect any authorization to work as a licensed professional outside
13 the destination state. A licensee utilizing a temporary license shall notify the licensing authority
14 of the destination state if any adverse action is taken against the licensee by any jurisdiction in
15 which the licensee holds a license.

16 SECTION VIII

17 JURISDICTION OVER LICENSEES

18 An individual issued a temporary license by a destination state automatically submits
19 himself or herself to the jurisdiction of the licensing authority of the destination state such that
20 the licensing authority is authorized to take any action against a temporary license that it is
21 authorized to take against a regular licensee. Other member states, however, retain jurisdiction
22 to impose adverse action against their own licensees.

23 SECTION IX

24 STATE LAW SUPERSEDED

1 All member states' laws, except for state constitutions and opt-out provisions adopted
2 pursuant to section VI of this compact, are superseded by the Interstate Compact for the
3 Temporary Licensure of Professionals, but only to the extent of a conflict. Whenever possible,
4 this compact and any other licensing compact shall be interpreted to avoid conflicts between the
5 compacts. The option of temporary licensure that this compact creates is intended to coexist
6 with the option of licensure or authorization to work created by other interstate licensing
7 compacts specific to a profession. Nothing in this compact shall be construed to require a
8 licensing authority to issue a temporary license if such issuance would jeopardize the member
9 state's ability to participate in a separate licensing compact specific to a profession. Furthermore,
10 nothing in this compact shall be construed to limit the ability of a licensing authority to issue
11 a license pursuant to a state or federal law that allows for issuance of licenses in a more
12 expedited manner.

13 SECTION X

14 EFFECTIVE DATE

15 Any state is eligible to become a member state. This compact shall become effective and
16 binding upon legislative enactment of this compact into law by no less than two states. The
17 initial effective date shall be the later of July 1, 2018, or upon the date the law is enacted in the
18 second jurisdiction to join this compact. Thereafter this compact becomes effective and binding
19 as to any other member state upon the date the law is enacted in that state.

20 SECTION XI

21 WITHDRAWAL

22 Any member state may withdraw from this compact by specifically repealing the law that
23 enacted this compact. The effective date of the withdrawal is the effective date of the repeal.
24 Any temporary license issued by the member state prior to the withdrawal date is not affected

1 by withdrawal.

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SECTION XII

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INSUBSTANTIAL DIFFERENCES

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The validity of this compact is not affected by any insubstantial differences in its form or

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language as adopted by any member state.