

Senate Study Bill 1126 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON SCHULTZ)

A BILL FOR

- 1 An Act relating to professional licensing by limiting the
- 2 authority of cities and counties to enact or enforce certain
- 3 professional or occupational licensing laws and relating to
- 4 qualifications for holding professional licenses.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 272C.1, Code 2019, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 5A. "*Licensing authority*" means a licensing
4 board or another body established to issue licenses to a
5 person practicing a profession or occupation by a political
6 subdivision.

7 NEW SUBSECTION. 10. "*Political subdivision*" means a city
8 or county in this state.

9 NEW SUBSECTION. 11. "*Professional or occupational fee*"
10 means a fee imposed on a person as a condition of practicing a
11 profession or occupation.

12 Sec. 2. NEW SECTION. 272C.12 Licensing requirements of
13 political subdivisions limited.

14 A political subdivision shall not impose an occupational fee
15 or licensing requirement on a profession or occupation that
16 is not subject to such a fee or licensing requirement of the
17 political subdivision as of January 1, 2020, but the political
18 subdivision may continue to impose professional or occupational
19 fees or licensing requirements in place prior to January 1,
20 2020.

21 Sec. 3. NEW SECTION. 272C.13 Disqualifications for criminal
22 convictions limited.

23 1. A licensing authority that may deny a professional or
24 occupational license on the basis of an applicant's criminal
25 record shall list the specific criminal offenses that would
26 disqualify an applicant from receiving a license. Any
27 such offenses shall be directly related to the duties and
28 responsibilities of the profession or occupation.

29 2. A licensing authority shall not deny an application for a
30 license on the basis of an arrest not followed by a conviction
31 or based on a finding that an applicant lacks good character,
32 suffers from moral turpitude, or on other similar basis.

33 3. A valid disqualification as described in subsection 1
34 shall not persist past five years after the date of conviction,
35 provided that the crime is not violent or sexual in nature

1 and the applicant has not been convicted of another crime
2 within the period of disqualification. Such a person may be
3 disqualified for no more than five years following the person's
4 release from incarceration.

5 4. A licensing authority shall consider clear and
6 convincing evidence of all of the following factors in
7 determining whether an applicant's disqualifying criminal
8 record is directly related to the duties and responsibilities
9 of the profession or occupation:

10 a. The nature and seriousness of the crime for which the
11 individual was convicted.

12 b. The amount of time that has passed since the commission
13 of the crime.

14 c. The relationship of the crime to the ability, capacity,
15 and fitness required to perform the duties and discharge the
16 responsibilities of the profession or occupation.

17 d. Any evidence of rehabilitation or treatment undertaken
18 by the individual that might mitigate against a finding that a
19 disqualifying criminal record directly relates to the duties
20 and responsibilities of the profession or occupation.

21 5. An individual may petition a licensing authority, in a
22 form prescribed by the licensing authority, for a determination
23 as to whether the individual's criminal record will prevent the
24 individual from receiving a license. The licensing authority
25 shall issue such determinations within thirty days of receipt.
26 The licensing authority may charge a fee to recoup the costs of
27 such a determination, provided that such a fee shall not exceed
28 twenty-five dollars.

29 6. a. A licensing authority that denies an individual a
30 license solely or partly because of the individual's prior
31 conviction of a crime shall notify the individual in writing
32 of all of the following:

33 (1) The grounds for the denial or disqualification.
34 (2) That the individual has the right to a hearing to
35 challenge the licensing authority's decision.

1 (3) The earliest date the person may submit a new
2 application.

3 (4) That evidence of rehabilitation may be considered upon
4 reapplication.

5 b. A determination by a licensing authority that an
6 applicant's criminal conviction is specifically listed as a
7 disqualifying conviction and is directly related to the duties
8 and responsibilities of the profession or occupation must be
9 documented in written findings for each factor in paragraph "a"
10 sufficient for review by a court.

11 c. In any administrative or civil hearing authorized by
12 this section or chapter 17A, the licensing authority shall
13 carry the burden of proof on the question of whether the
14 applicant's criminal conviction directly relates to the duties
15 and responsibilities of the profession or occupation for which
16 the license is sought.

17 7. Each licensing authority shall adopt rules for the
18 implementation of this section.

19 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection
20 3, shall not apply to this Act.

21 Sec. 5. EFFECTIVE DATE. This Act takes effect January 1,
22 2020.

23 Sec. 6. APPLICABILITY. This Act applies to all licensing
24 decisions made by a licensing authority on or after 120 days
25 from the effective date of this Act, except that a licensing
26 authority may implement the provisions of this Act prior to
27 that date.

28 EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

31 This bill sets limitations on the ability of cities and
32 counties, referred to as "political subdivisions", to regulate
33 professions and occupations. The bill prohibits political
34 subdivisions from imposing any new licensing requirements or
35 professional or occupational fees beginning January 1, 2020.

1 Political subdivisions may continue to impose any existing
2 licensing requirements or fees.

3 The bill also limits the ability of licensing authorities
4 to refuse to grant a license on the basis of an applicant's
5 criminal record by requiring licensing authorities to
6 specifically list the offenses that disqualify an applicant
7 and to specifically detail the grounds for disqualification of
8 each applicant. A licensing authority cannot disqualify an
9 applicant for an arrest not followed by a conviction or for a
10 conviction that occurred more than five years ago, provided
11 that the offense was not violent or sexual in nature, or based
12 on a finding that an applicant lacks good character or suffers
13 from moral turpitude.

14 A disqualified person who commits an additional offense
15 during the period of disqualification or who is disqualified
16 based on a violent or sexual crime may not be disqualified for
17 longer than five years following release from incarceration.
18 An applicant who is denied a license on the basis of a criminal
19 record is entitled to an administrative review and any review
20 in civil court permitted by Code chapter 17A. The licensing
21 authority bears the burden of proof in such proceedings.
22 The bill also requires licensing authorities to respond to
23 inquiries as to whether an individual's criminal record would
24 disqualify the individual from obtaining a license.

25 The bill may include a state mandate as defined in Code
26 section 25B.3. The bill makes inapplicable Code section 25B.2,
27 subsection 3, which would relieve a political subdivision from
28 complying with a state mandate if funding for the cost of
29 the state mandate is not provided or specified. Therefore,
30 political subdivisions are required to comply with any state
31 mandate included in the bill.

32 The bill takes effect January 1, 2020. The bill applies
33 to all licensing decisions made on or after 120 days from the
34 effective date of the bill, except that a licensing authority
35 may implement the bill on an earlier date.