

ACT 70

S.B. NO. 460

A Bill for an Act Relating to Regulatory Boards and Commissions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The Legislature finds that: (1) there is growing concern over the rapid proliferation of licensing boards and commissions; (2) that there is a need to insure that regulation operates in the interests of the public rather than those of the profession or vocation regulated; and (3) that decisions to regulate have in the past been heavily influenced by the trade or occupational group affected and often have been made without detailed factual data necessary to evaluate the purpose and effectiveness of the regulatory proposal.

The purpose of this Act is to establish policies and procedures designed to insure that regulation of professions and vocations is in the public interest. This Act: (1) provides for a periodic assessment of existing professional and vocational regulation; (2) insures that all available information is available prior to such assessment; and (3) provides for the automatic repeal of regulatory laws which after assessment are found to be contrary to the public interest. The Act further provides for such factual assessment prior to the consideration of new regulatory proposals.

SECTION 2. The Hawaii Revised Statutes are hereby amended by adding thereto a new chapter to be appropriately designated and to read:

“Sec. -1 Title. This chapter shall be known as the “Hawaii Regulatory Licensing Reform Act”.

Sec. -2 Policy. The legislature hereby adopts the following policies

concerning professional and vocational regulation within the State:

- (1) The regulation and licensing of professions and vocations by the State shall be undertaken only where reasonably necessary to protect the health, safety or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;
- (2) Even where regulation of professions and vocations is reasonably necessary to protect consumers, government interference should be minimized; if less restrictive alternatives to full licensure are available, they should be adopted;
- (3) Professional and vocational regulation shall not be imposed except where necessary to protect relatively large numbers of consumers who because of a variety of circumstances may be at a disadvantage in choosing or relying on the provider of the service;
- (4) Evidence of abuses by providers of the service shall be accorded great weight in determining whether government supervision is desirable;
- (5) Professional and vocational regulation which artificially increases the costs of goods and services to the consumer should be avoided;
- (6) Professional and vocational regulation should be eliminated where its benefits to consumers are outweighed by its costs to taxpayers; and
- (7) Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons.

Sec. -3 Definitions. As used in this chapter:

- (1) "Director" means the director of regulatory agencies.
- (2) "Repeal date" means the effective date of repeal established for various chapters by section -4.
- (3) "Joint committee" means a joint committee of both houses of the legislature which the president of the senate and the speaker of the house of representatives shall appoint for the purpose of reviewing assessment reports filed pursuant to sections -5 and -6.
- (4) "Impact statement" means a written statement in such form and containing such information as the director shall prescribe which as a minimum shall contain all reasonably obtainable data regarding the consumers and providers of a service or activity which is regulated or proposed to be regulated.

Sec. -4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1978:

- (1) Chapter 438, Hawaii Revised Statutes (Board of Barbers)
- (2) Chapter 448A, Hawaii Revised Statutes (Escort Agencies)
- (3) Chapter 452, Hawaii Revised Statutes (Board of Massage)
- (4) Chapter 455, Hawaii Revised Statutes (Board of Examiners in Naturopathy)
- (5) Chapter 462, Hawaii Revised Statutes (Board of Photography)
- (6) Chapter 463E, Hawaii Revised Statutes (Podiatry)
- (b) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 437, Hawaii Revised Statutes (Motor Vehicle Industry Licensing Board)
- (2) Chapter 440, Hawaii Revised Statutes (Boxing Commission)
- (3) Chapter 443, Hawaii Revised Statutes (Collection Agencies Board)
- (4) Chapter 446D, Hawaii Revised Statutes (Degree Granting Institutions)
- (5) Chapter 448H, Hawaii Revised Statutes (Elevator Mechanics Licensing Board)
- (6) Chapter 467A, Hawaii Revised Statutes (Rental Agencies)
- (c) The following chapters are hereby repealed effective December 31,

1980:

- (1) Chapter 436, Hawaii Revised Statutes (Board of Examiners for Abstract Makers)
- (2) Chapter 439, Hawaii Revised Statutes (Board of Cosmetology)
- (3) Chapter 447, Hawaii Revised Statutes (Dental Hygienists)
- (4) Chapter 463, Hawaii Revised Statutes (Board of Private Detectives and Guards)
- (5) Chapter 468J, Hawaii Revised Statutes (Travel Agencies)
- (6) Chapter 471, Hawaii Revised Statutes (Board of Veterinary Examiners)
- (d) The following chapters are hereby repealed effective December 31,

1981:

- (1) Chapter 441, Hawaii Revised Statutes (Cemetery Board)
- (2) Chapter 451A, Hawaii Revised Statutes (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B, Hawaii Revised Statutes (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 458, Hawaii Revised Statutes (Board of Dispensing Opticians)
- (5) Chapter 459, Hawaii Revised Statutes (Board of Examiners in Optometry)
- (6) Chapter 465, Hawaii Revised Statutes (Board of Certification for Practicing Psychologists)
- (7) Chapter 468E, Hawaii Revised Statutes (Board of Speech Pathology and Audiology)
- (e) The following chapters are hereby repealed effective December 31,

1982:

- (1) Chapter 436D, Hawaii Revised Statutes (Board of Acupuncture)
- (2) Chapter 437B, Hawaii Revised Statutes (Motor Vehicle Repair Industry Board)
- (3) Chapter 442, Hawaii Revised Statutes (Board of Chiropractic Examiners)
- (4) Chapter 448E, Hawaii Revised Statutes (Board of Electricians and Plumbers)
- (5) Chapter 464, Hawaii Revised Statutes (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466, Hawaii Revised Statutes (Board of Public Accountancy)

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- (7) Chapter 467, Hawaii Revised Statutes (Real Estate Commission)
- (f) The following chapters are hereby repealed effective December 31, 1983:
 - (1) Chapter 444, Hawaii Revised Statutes (Contractors License Board)
 - (2) Chapter 448, Hawaii Revised Statutes (Board of Dental Examiners)
 - (3) Chapter 453, Hawaii Revised Statutes (Board of Medical Examiners)
 - (4) Chapter 457, Hawaii Revised Statutes (Board of Nursing)
 - (5) Chapter 460, Hawaii Revised Statutes (Board of Osteopathic Examiners)
 - (7) Chapter 461, Hawaii Revised Statutes (Board of Pharmacy)

Sec. -5 Impact statement; review; recommendation to the legislature.

Each board or commission created under a chapter repealed by section -4, and the director of regulatory agencies with respect to such chapters which do not create a board or commission, shall prior to October 1 of the year preceeding the year of the repeal date transmit to the governor and file with the clerks of both houses of the legislature an impact statement in compliance with this section. The impact statement shall contain an assessment of whether the regulation established by the chapter complies with the policies established by section -2, and shall contain a recommendation as to whether the public interest requires that the chapter be reenacted, modified or permitted to expire. The impact statement may also recommend that the repeal date established by section -4 be extended to some later date not more than six years after the repeal date. The joint committee shall review and hold a public hearing on each impact statement filed pursuant to this section and shall prior to January 1 of the year of the repeal date file a report containing its conclusions and recommendations thereon with the clerks of both houses of the legislature.

Sec. -6 New regulatory measures. All persons who advocate the passage of new regulatory measures which if enacted would subject unregulated professions and vocations to licensing or other regulatory controls shall prepare and file an impact statement with the clerks of both houses of the legislature. The impact statement required by this section shall set forth the probable effects of the proposed regulatory law and contain a determination as to whether its enactment is consistent with the policies set forth in section -2. A copy of the impact statement required by this section shall be furnished the director and the joint committee who shall provide their recommendations thereon to the legislature.

Sec. -7 Repeal of subsections. Any subsection of section -2 may be repealed or amended and such action shall not affect other provisions or applications of this chapter."

SECTION 3. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. This Act shall take effect upon approval.

(Approved May 10, 1977.)