

SENATE BILL No. 366

By Committee on Commerce

2-4

1 AN ACT concerning occupational regulation; relating to occupational
2 licenses for certain applicants; amending K.S.A. 2019 Supp. 48-3406
3 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2019 Supp. 48-3406 is hereby amended to read as
7 follows: 48-3406. (a) For the purposes of this section:

8 (1) "Licensing body" means an official, agency, board or other entity
9 of the state which authorizes individuals to practice a profession in this
10 state and issues a license, registration, certificate, permit or other
11 authorization to an individual so authorized;

12 (2) "Military servicemember" means a member of the army, navy,
13 marine corps, air force, air or army national guard of any state, coast guard
14 or any branch of the military reserves of the United States; ~~and with an~~
15 *honorable discharge.*

16 (3) "Military spouse" means the spouse of an individual who is
17 currently in active service in any branch of the armed forces of the United
18 States.

19 (4) *"Applicant" means an individual who is a military spouse,*
20 *military servicemember or an individual who has established or intends to*
21 *establish residency in this state.*

22 (5) *"Private certification" is a voluntary program in which a private*
23 *organization grants nontransferable recognition to an individual who*
24 *meets personal qualifications and standards relevant to performing the*
25 *occupation as determined by the private organization.*

26 (b) Notwithstanding any other provision of law, any licensing body
27 shall:

28 ~~(1) —, upon submission of a completed application, issue a license,~~
29 ~~registration or certification to a nonresident military spouse~~ *an applicant,*
30 ~~so that the nonresident military spouse applicant may lawfully practice the~~
31 ~~person's occupation; and~~

32 ~~(2) — upon submission of a completed application within six months~~
33 ~~following release from military service, issue a license, registration or~~
34 ~~certification to a military servicemember with an honorable discharge so~~
35 ~~that the military servicemember may lawfully practice the military~~
36 ~~servicemember's occupation.~~

1 (c) ~~A military servicemember with an honorable discharge or~~
2 ~~nonresident military spouse~~ An applicant shall receive a license,
3 registration or certification under subsection (b) of this section:

4 (1) *If the applicable Kansas licensure, registration or certification by*
5 *endorsement, reinstatement or reciprocity statutes are more favorable to*
6 *applicants, as determined by the licensing body, then pursuant to*
7 applicable licensure, registration or certification by endorsement,
8 reinstatement or reciprocity statutes of the licensing body of this state for
9 the ~~profession~~ professional license, registration or certification within ~~60~~
10 10 business days from the date a complete application was submitted; or

11 (2) *if such provisions are less favorable to applicants, as determined*
12 *by the licensing body, or if the Kansas professional practice act does not*
13 have licensure, registration or certification by endorsement, reinstatement
14 or reciprocity statutes, then *the applicant shall receive a license,*
15 *registration or certification as provided herein if,* at the time of
16 application, the ~~military servicemember or nonresident military spouse~~
17 *applicant:*

18 (A) Holds a *valid* current license, registration or certification in
19 another state, district or territory of the United States with licensure,
20 registration or certification requirements that the licensing body
21 determines are *substantially* equivalent to those established by the
22 licensing body of this state, *or holds a certification issued by another state*
23 *for practicing the occupation but this state requires an occupational*
24 *license, and the licensing body determines that the certification*
25 *requirements are substantially equivalent to the licensing requirements*
26 *established by the licensing body of this state;*

27 (B) has not committed an act in any jurisdiction that would have
28 constituted grounds for the limitation, suspension or revocation or that the
29 applicant has never been censured or had other disciplinary action taken or
30 had an application for licensure, registration or certification denied or
31 refused to practice an occupation for which the ~~military servicemember or~~
32 ~~nonresident military spouse~~ applicant seeks licensure, registration or
33 certification;

34 (C) has not been disciplined by a licensing, registering, certifying or
35 other credentialing entity in another jurisdiction and is not the subject of
36 an unresolved complaint, review procedure or disciplinary proceeding
37 conducted by a licensing, registering, certifying or other credentialing
38 entity in another jurisdiction nor has surrendered their membership on any
39 professional staff in any professional association or society or faculty for
40 another state or jurisdiction while under investigation or to avoid adverse
41 action for acts or conduct similar to acts or conduct ~~which~~ that would
42 constitute grounds for disciplinary action in a Kansas practice act;

43 (D) *does not have a disqualifying criminal record as determined by*

1 *the Kansas licensing body of this state under Kansas law;*

2 *(E) provides proof of solvency, financial standing, bonding or*
 3 *insurance if required by the licensing body of this state, but only to the*
 4 *same extent as required of any applicant with similar credentials or*
 5 *experience;*

6 *(F) pays any fees required by the licensing body of this state; and*

7 ~~*(E)*~~*(G) submits with the application a signed affidavit stating that the*
 8 *application information, including necessary prior employment history, is*
 9 *true and accurate.*

10 ~~Upon receiving such affidavit a complete application, the licensing~~
 11 ~~body shall issue the license, registration or certification within 60 10~~
 12 ~~business days from the date a complete application was submitted, to the~~
 13 ~~military servicemember or nonresident military spouse applicant on a~~
 14 ~~probationary basis, but may revoke the license, registration or certification~~
 15 ~~at any time if the information provided in the application is found to be~~
 16 ~~false. Any The probationary license issued under this subsection to a~~
 17 ~~military servicemember or nonresident military spouse period shall not~~
 18 ~~exceed six months.~~

19 ~~(d) Any person individual who has not been in the active practice of~~
 20 ~~the occupation during the two years preceding the application for which~~
 21 ~~the applicant seeks a license, registration or certification under subsections~~
 22 ~~(b) and (c) may be required to complete such additional testing, training,~~
 23 ~~mentoring, monitoring or education as the Kansas licensing body may~~
 24 ~~deem necessary to establish the applicant's present ability to practice with~~
 25 ~~reasonable skill and safety, as provided by subsection (j).~~

26 *(e) Upon submission of a completed application, an applicant shall*
 27 *receive an occupational license, registration or certification under*
 28 *subsection (b) based on the applicant's work experience in another state, if*
 29 *the applicant:*

30 *(1) Worked in a state that does not use an occupational license,*
 31 *registration or certification to regulate an occupation, but this state uses*
 32 *an occupational license, registration or certification to regulate the*
 33 *occupation;*

34 *(2) worked for at least three years in the occupation during the four*
 35 *years immediately preceding the application; and*

36 *(3) satisfies the requirements of subsection (c)(2)(B) through (G).*

37 *(f) Upon submission of a completed application, an applicant shall*
 38 *receive an occupational license, registration or certification under*
 39 *subsection (b) based on the applicant's holding of a private certification*
 40 *and work experience in another state, if the applicant:*

41 *(1) Holds a private certification and worked in a state that does not*
 42 *use an occupational license or government certification to regulate an*
 43 *occupation, but this state uses an occupational license or government*

1 *certification to regulate the occupation;*

2 (2) *worked for at least two years in the occupation;*

3 (3) *holds a current and valid private certification in the occupation;*

4 (4) *is held in good standing by the organization that issued the*
5 *private certification; and*

6 (5) *satisfies the requirements of subsection (c)(2)(B) through (G).*

7 (g) A nonresident ~~military spouse applicant~~ licensed, registered or
8 certified under this section shall be entitled to the same rights and subject
9 to the same obligations as are provided by the licensing body for Kansas
10 residents, except that revocation or suspension of a nonresident ~~military~~
11 ~~spouse's applicant's~~ license, registration or certificate in the nonresident
12 ~~military spouse's applicant's~~ state of residence or any jurisdiction in which
13 the nonresident ~~military spouse applicant~~ held a license, registration or
14 certificate shall automatically cause the same revocation or suspension of
15 such nonresident ~~military spouse's applicant's~~ license, registration or
16 certificate in Kansas. No hearing shall be granted to a nonresident ~~military~~
17 ~~spouse applicant~~ where such nonresident ~~military spouse's applicant's~~
18 license, registration or certificate is subject to such automatic revocation or
19 suspension except for the purpose of establishing the fact of revocation or
20 suspension of the nonresident ~~military spouse's applicant's~~ license,
21 registration or certificate by the nonresident ~~military spouse's applicant's~~
22 state of residence.

23 (f)(h) In the event the licensing body determines that the license,
24 registration or certificate currently held by the ~~military servicemember or~~
25 ~~nonresident military spouse applicant~~ under subsection (c)(2)(A) is not
26 *substantially* equivalent to those issued by the licensing body of this state,
27 the licensing body ~~may~~ *shall* issue a temporary permit for a limited period
28 of time to allow the ~~military servicemember or nonresident military spouse~~
29 ~~applicant~~ to lawfully practice the ~~military servicemember's or nonresident~~
30 ~~military spouse's applicant's~~ occupation while completing any specific
31 requirements that are required in this state for licensure, registration or
32 certification that was not required in the state, district or territory of the
33 United States in which the ~~military servicemember or nonresident military~~
34 ~~spouse applicant~~ was licensed, registered, certified or otherwise
35 credentialed, *unless the licensing body determines, based on specific*
36 *grounds, that issuing a temporary permit would jeopardize the safety of*
37 *the public. Any determination by the licensing body that the license,*
38 *registration or certificate currently held by the applicant is not*
39 *substantially equivalent shall be based on specific grounds. All*
40 *determinations by the licensing body under this subsection or subsection*
41 *(i) shall set forth the facts considered and the reasoning applied with*
42 *respect to every specified ground of the determination and shall be*
43 *provided to the applicant in writing within 10 business days of the date of*

1 *the application.*

2 *(i) In the event that the licensing body determines that the private*
3 *certification or work experience currently held by the applicant under*
4 *subsection (e) or (f) is not sufficient to establish the applicant's present*
5 *ability to practice with reasonable skill and safety, the applicant may be*
6 *required to complete such additional testing, training, mentoring,*
7 *monitoring or education as the licensing body deems necessary. The*
8 *applicant shall be issued a temporary permit for a limited period of time*
9 *to allow the applicant to lawfully practice the occupation while*
10 *completing any specific requirements unless the licensing body finds,*
11 *based on specific grounds, that issuing a temporary permit would*
12 *jeopardize the safety of the public.*

13 *(j) Any testing, education or training requirements administered*
14 *under subsection (d), (h) or (i) shall be limited to Kansas law that*
15 *regulates the occupation and that is materially different from or additional*
16 *to the law of another state, or shall be limited to any materially different*
17 *or additional body of knowledge or skill required for the occupational*
18 *license, registration or certification in Kansas.*

19 ~~(g)~~(k) *A licensing body may grant licensure, registration, certification*
20 *or a temporary permit to any person who meets the requirements under*
21 *this section but was separated from such military service under less than*
22 *honorable conditions or with a general discharge under honorable*
23 *conditions.*

24 *(l) Nothing in this section shall be construed as prohibiting a*
25 *licensing body from applying a rule or regulation or a reciprocal or other*
26 *applicable statutory provision that is more favorable to an applicant than*
27 *the provisions of this section. Licensing bodies shall apply such provisions*
28 *or the provisions of this section most favorable to applicants as*
29 *determined by the licensing body. Nothing in this section shall be*
30 *construed to apply in conflict with or in a manner inconsistent with federal*
31 *law or a multistate compact.*

32 ~~(h)~~(m) *Each licensing body ~~may~~ shall adopt rules and regulations*
33 *necessary to implement and carry out the provisions of this section.*

34 ~~(i)~~(n) *This section shall not apply to the practice of law or the*
35 *regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto.*

36 *(o) This section shall apply to all licensing bodies not excluded under*
37 *subsection (n), including, but not limited to:*

38 *(1) The abstracters' board of examiners;*

39 *(2) the board of accountancy;*

40 *(3) the board of adult care home administrators;*

41 *(4) the secretary for aging and disability services, with respect to*
42 *K.S.A. 65-5901 et seq. and K.S.A. 65-6503 et seq., and amendments*
43 *thereto;*

- 1 (5) *the Kansas board of barbering;*
- 2 (6) *the behavioral sciences regulatory board;*
- 3 (7) *the Kansas state board of cosmetology;*
- 4 (8) *the Kansas dental board;*
- 5 (9) *the state board of education;*
- 6 (10) *the Kansas board of examiners in fitting and dispensing of*
- 7 *hearing instruments;*
- 8 (11) *the board of examiners in optometry;*
- 9 (12) *the state board of healing arts;*
- 10 (13) *the secretary of health and environment, with respect to K.S.A.*
- 11 *82a-1201 et seq., and amendments thereto;*
- 12 (14) *the commissioner of insurance, with respect to K.S.A. 40-241*
- 13 *and 40-4901 et seq., and amendments thereto;*
- 14 (15) *the state board of mortuary arts;*
- 15 (16) *the board of nursing;*
- 16 (17) *the state board of pharmacy;*
- 17 (18) *the Kansas real estate commission;*
- 18 (19) *the real estate appraisal board;*
- 19 (20) *the state board of technical professions; and*
- 20 (21) *the state board of veterinary examiners.*
- 21 Sec. 2. K.S.A. 2019 Supp. 48-3406 is hereby repealed.
- 22 Sec. 3. This act shall take effect and be in force from and after its
- 23 publication in the statute book.