

Employment, Labor, and Professional Regulation

H.B. 33

Primary Sponsors: Reps. Lanese and Carruthers

Effective date: April 12, 2021

Child abuse reporting

- Adds dog warden, deputy dog warden, or other person appointed to act as an animal control officer for a municipal corporation or township to the professionals (“mandatory reporters”) who must immediately report child abuse to a public children services agency (PCSA) or peace officer.

Animal abuse reporting

- Generally prohibits veterinarians and specified social service and counseling professionals from failing to report abuse of a companion animal (e.g., a dog or cat).
- Requires the animal abuse report to be made to a law enforcement officer, humane society agent, or animal control-type professional.
- Similarly prohibits a law enforcement officer, humane society agent, animal control-type professional, dog warden, or deputy dog warden from failing to report abuse of a companion animal to an appropriate social service professional when they suspect abuse toward a companion animal may impact a child or older adult in the home.
- Sets forth the information that must be included in a report, including a description of the animal (if known) and the nature and extent of the suspected abuse, but exempts information that is confidential or that could jeopardize a pending criminal investigation.
- Specifies that a person required to make an animal abuse report is immune from civil or criminal liability in connection with making the report when the report is made in good faith.
- Prohibits individuals required to report animal abuse from knowingly making a false report, and specifies that violating the prohibition is a fourth degree misdemeanor.
- Requires the appropriate licensing board or the entity with employment oversight to issue a confidential written warning and explanation of reporting requirements to a person who fails to make a report when required.
- Imposes civil penalties on licensed veterinarians, counselors, social workers, and marriage and family therapists for knowingly making a false report and for the second or subsequent violation of failing to report when required.
- Requires that all civil penalties collected be deposited into the Occupational Licensing and Regulatory Fund.

H.B. 67

Primary Sponsors: Reps. Brinkman and Kelly

Effective date: April 12, 2021

- Creates the Veterinarian Student Debt Assistance Program, which allows the State Veterinary Medical Licensing Board, by contract, to agree to repay all or part of any educational loans taken out by a veterinarian while in veterinary college.
- Requires the Board to grant all participants the same amount in a given year, which must be between \$5,000 and \$10,000.
- Establishes eligibility requirements for program applicants, including a requirement that an applicant, prior to applying, must perform specified charitable veterinarian services.
- Requires the Board to select applicants for participation via lottery every odd-numbered calendar year (to coincide with each biennial state budget).
- Requires veterinarians selected via the lottery to sign a letter of intent and then enter into a contract with the Board for participation in the two-year program.
- Prescribes a formula for calculating the program's funding from the Occupational Licensing Regulatory Fund, based on the Board's revenue, expenditures, and appropriations during the previous biennium.
- Requires the Board to submit a report to the Governor and the General Assembly describing the program's operation during the previous biennium.

H.B. 81

Primary Sponsor: Rep. Perales

Effective date: September 15, 2020

Post-exposure testing

- Requires, under specified conditions, the Administrator of Workers' Compensation or a self-insuring employer to pay for services used to determine whether a detention facility employee sustained an injury or occupational disease after exposure to another person's blood or bodily fluids.
- Requires, under specified conditions, the Administrator or a self-insuring employer to pay for services used to determine whether specified safety officers sustained an injury or occupational disease after exposure to a drug or other chemical substance.

Voluntary abandonment doctrine

- Provides that, to be eligible to receive temporary total disability (TTD) compensation, a person must be unable to work or must suffer a wage loss as the direct result of an impairment arising from an injury or occupational disease.

- Prohibits a person from receiving TTD compensation when the person is not working or has suffered a wage loss as the direct result of reasons unrelated to an allowed injury or occupational disease.
- States that the General Assembly intends to supersede any previous judicial decision that applied the voluntary abandonment doctrine to TTD or wage loss claims.
- Prohibits a person from receiving permanent total disability compensation when the person is not working for reasons unrelated to an allowed injury or occupational disease.
- Applies the rule to claims pending on the act's effective date and to claims arising after that date.

Additional award for specific safety violation

- Requires, for claims arising on or after the act's effective date, a claim for an additional award of compensation for a violation of a specific safety rule to be filed within one year after the injury or death or within one year after a disability due to occupational disease begins, rather than within two years as previously required.

Final settlement agreements

- Prohibits an employer from refusing or withdrawing from a proposed claim settlement agreement if the employee who is the subject of the claim is no longer employed by the employer and the claim is no longer within the date of impact pursuant to the employer's industrial accident or occupational disease experience for premium calculation purposes.

Continuing jurisdiction over claims

- Makes the rendering of medical services, instead of payment for the services, an event that continues the Industrial Commission's jurisdiction to modify or change a claim or to make a finding or award under a claim.

Funeral expenses

- Increases the funeral expense benefit cap from \$5,500 to \$7,500.

Appealing Industrial Commission orders

- Applies to claims pending on and arising after September 29, 2017, a provision in H.B. 27 of the 132nd General Assembly extending the time to appeal an Industrial Commission order from 60 days to 150 days when certain conditions are satisfied.

Employee medical examinations

- Prohibits a private employer furnishing services for a public employer under a contract governed by the federal Service Contract Act from generally requiring an applicant or employee to pay for medical examinations that are required as a condition of employment or continued employment.

H.B. 263

Primary Sponsor: Rep. Koehler

Effective date: Most provisions effective October 9, 2021; requirement that licensing authorities list disqualifying offenses is effective April 12, 2021, with a deadline of October 9, 2021

Limitations on initial license refusal

- Requires each state licensing authority to adopt by October 9, 2021, a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining an initial license to engage in a profession, occupation, or occupational activity.
- Allows a state licensing authority to consider a listed disqualifying offense in deciding whether to issue an individual a license, and requires it to consider the offense (1) in light of specific factors supported by a preponderance of the evidence and (2) only during specified time periods.
- Prohibits a state licensing authority from refusing to issue a license to an individual based solely on being charged with or convicted of a criminal offense or based on a nonspecific qualification such as “moral turpitude” or lack of “moral character.”
- Requires a state licensing authority that refuses to issue a license because of a specific disqualifying offense to notify the applicant of the reason for the refusal, the applicant’s right to an administrative hearing, the earliest date the applicant may reapply, and the applicant’s ability to offer evidence of rehabilitation on reapplication.
- Places the burden of proving the relationship between a disqualifying offense and the licensed occupation on the state licensing authority in any proceeding reviewing the authority’s denial of an initial license based on a disqualifying offense.
- Allows a state licensing authority authorized by law to limit or otherwise place restrictions on a license to do so to comply with a community control sanction, post-release control sanction, or court-established intervention plan.

Criminal offense licensing database

- Requires, with respect to an individual’s continuing law ability to request a determination from a licensing authority whether a conviction disqualifies the individual from licensure, that each state licensing authority annually provide the Director of Administrative Services with specified information about each license the authority regulates.

H.B. 352

Primary Sponsors: Reps. Cross and Lang

Effective date: April 15, 2021

- Excludes, for purposes of being an employer under the Ohio Civil Rights Law, any person acting directly or indirectly in an employer's interest, and adds an employer's agent.
- Creates a separate procedure for charges filed with the Ohio Civil Rights Commission (OCRC) that allege an unlawful discriminatory practice relating to employment.
- Requires claimants, except in specified circumstances, to obtain a notice of right to sue from OCRC before filing a lawsuit that alleges an unlawful discriminatory practice relating to employment.
- Shortens the time in which lawsuits related to employment discrimination can be brought under Ohio law to two years from six years generally.
- Codifies the requirements that lawsuits related to employment discrimination brought under federal law be brought within two years.
- Prescribes, for employers, an affirmative defense to vicarious liability resulting from alleged sexual harassment of an employee by the employee's supervisor.
- Reduces the number of methods to bring age discrimination lawsuits under the Ohio Civil Rights Law.
- Specifically includes lawsuits related to employment discrimination in the definition of a "tort action" in the Trial Procedure Law (appears to have already been law).
- Specifies that the remedies for unlawful discriminatory practice in employment set in the Ohio Civil Rights Law are the sole remedies for an aggrieved person subject to the law.

H.B. 442

Primary Sponsors: Reps. Roemer and West

Effective date: April 12, 2021; Ohio Teacher Residency Program provisions effective April 12, 2023

CPA certificate

- Eliminates the option of a person having two years of accounting experience, but whose degree does not satisfy the education requirement for a certified public accountant (CPA) certificate, to successfully complete additional coursework and become eligible for a CPA certificate.
- Permits a person to take the CPA certificate examination if the person has a baccalaureate degree, its equivalent, or a higher degree that includes successful completion of 120 semester hours of undergraduate or graduate education, rather than 150 hours under former law.

- Eliminates examination schedule requirements and the Accountancy Board's ability to adopt rules granting credit to an individual who has passed one or more parts of another state's CPA examination.
- Eliminates an exemption for a registered public accountant satisfying the education requirements necessary to qualify for a CPA certificate (Ohio has not registered public accountants since 1993).

Department of Commerce

Ski Tramway Board

- Eliminates the Ski Tramway Board and transfers its duties to the Division of Industrial Compliance in the Department of Commerce.
- Makes issuance of the certificate of registration to a passenger tramway operator contingent on successful completion of an inspection.
- Requires ski tramways to be inspected annually by a ski tramway insurer, replacing inspections being at the discretion of the Board and performed by either the Board, a qualified engineer contracted by the Board, or a ski tramway insurer.
- Requires ski area operators to carry liability insurance in an amount determined by the Superintendent of Industrial Compliance.

Historical Boilers Licensing Board

- Eliminates the historical boiler operator's license.
- Eliminates the Historical Boilers Licensing Board and transfers its duties to the Division of Industrial Compliance.

Department of Health

Environmental health specialists

- Changes the professional title of "sanitarian-in-training" and "registered sanitarian" to "environmental health specialist in training" (EHST) and "registered environmental health specialist" (REHS), respectively.
- Removes the requirement that the Director of Health create and conduct EHST and REHS registration examinations, and instead requires an REHS registration applicant to pass the credential examination conducted by the National Environmental Health Association.
- Removes the requirement that an EHST applicant pass an examination prior to registration.
- Removes the requirement that an REHS applicant be of good moral character.
- Extends the validity of EHST and REHS certificates of registration from one year to two years.

- Requires an REHS to complete a continuing education program every two years (instead of every year).
- Specifies that an REHS must complete 24 hours of continuing education (instead of an amount determined by the Director that is between six and 25 hours).
- Reduces specified registration application and renewal fees for REHSs and EHSTs.

Administration of epinephrine autoinjectors

- Eliminates a requirement that an individual authorized to administer epinephrine autoinjectors on behalf of a qualified entity complete an anaphylaxis training course every two years.

Department of Natural Resources

- Authorizes the Chief of the Division of Wildlife to adopt rules establishing an administrative penalty against any person who violates the law or any rule governing wild animal hunting preserves.
- Eliminates the clay mine foreperson certification, and specifies that the Chief of the Division of Mineral Resources Management cannot require a person to be examined, certified, or meet experience requirements prior to performing the duties of a foreperson at a clay mine or clay stripping pit.

Environmental Protection Agency

- Eliminates the Certified Engineer Program that authorized engineers to conduct reviews of permit applications, renewals, and plans for compliance with performance standards under the environmental pollution control laws (the Director of Environmental Protection never established the program).
- Eliminates the certified water quality professional certification (which was never established by the Director).

State Board of Education

- Eliminates the requirement that pupil services personnel (including school speech language pathologists, audiologists, school nurses, physical therapists, occupational therapists, and social workers) hold a license from the State Board of Education and requires that they simply register with the Department of Education.
- Eliminates the substitute teacher license for pupil services.
- Eliminates the temporary educator license for superintendents and other administrators including principals that was superseded by the alternative administrator license.
- Reduces the duration of the resident educator license and the Ohio Teacher Residency Program to two years, effective April 12, 2023.

State Medical Board

- Regarding clinical research faculty certificates for physicians appointed to serve in Ohio on the academic staff of medical schools, eliminates (1) qualification requirements other than proof of appointment and licensure in another state, (2) the fee associated with the certificate, and (3) continuing education requirements.
- Regarding visiting clinical professional development certificates for foreign-licensed physicians participating in a clinical professional development program, eliminates (1) qualification requirements other than proof of program acceptance and licensure in another country and (2) the fee associated with the certificate.
- Eliminates the fee associated with a visiting podiatric faculty certificate for podiatrists appointed to serve in Ohio on the academic staff of an approved college of podiatric medicine and surgery.
- Authorizes a physician to satisfy up to ten (instead of three) hours of continuing education requirement by providing volunteer health care services, but sets the conversion rate as one credit hour of continuing education for every five hours spent volunteering (rather than the 1:1 ratio under prior law).
- Eliminates the State Medical Board's authority to license (1) cosmetic therapists and the practice of cosmetic therapy and (2) oriental medicine practitioners and the practice of oriental medicine.
- Requires 600 hours of specified education to qualify for a license to practice massage therapy.
- Gives the Medical Board the authority to recognize accrediting organizations for purposes of physician assistant education programs.

Renewal of licensing boards

- Renews for six years the State Board of Education, Ohio Athletic Commission, Environmental Protection Agency, Department of Natural Resources, Department of Health, State Medical Board, Ohio Home Inspector Board, Division of Securities, and Ohio Construction Industry Licensing Board.

Chiropractic Board

- Makes two technical changes in the law regulating chiropractors.

S.B. 201

Primary Sponsor: Sen. Dolan

Effective date: March 24, 2021

- Creates alternate employer organizations (AEOs), which are substantially similar to professional employer organizations (PEOs), and regulates AEOs in a very similar manner as PEOs.
- Requires an AEO to report federal taxes under the client employer's tax identification number (the PEO Law requires the use of the PEO's tax identification number).
- Requires an AEO to maintain workers' compensation coverage under its workers' compensation policy for all worksite employees associated with the client employer (the PEO Law allows a client employer to cover some worksite employees under its policy under certain circumstances).
- Specifies requirements for an AEO to satisfy to register with the Administrator of Workers' Compensation that are similar to the requirements a PEO must satisfy, except an AEO must maintain positive working capital at initial or annual registration.
- Requires an AEO to provide a bond or letter of credit in an amount the Administrator determines to be adequate to meet the AEO's financial obligations under the Workers' Compensation Law, which must be at least \$1 million, regardless of whether a deficit in working capital exists.
- Establishes criminal penalties for failing to register.
- Specifies duties of AEOs and their client employers and specifies which one is the employer of record for certain tax incentives and other programs, similar to PEOs under continuing law.
- Does not allow AEOs to register multiple entities and operate them together (the PEO Law specifically allows this for PEOs under certain circumstances).
- Does not allow an assurance organization to act on behalf of an AEO (the PEO Law specifically allows this for PEOs).

