

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 896

By: Dahm

AS INTRODUCED

An Act relating to occupation certification; defining terms; allowing for the private certification of professionals; requiring private certifying organizations to register with the Secretary of State; allowing the Secretary to impose fees in order to maintain registry; requiring participating organization to publish certain information for applicants, require and verify the certifications necessary for certifying; allowing an organization to require individuals to obtain a bond for liability and pay fees to the organization during certification; permitting an individual privately licensed by an organization to participate in their privately licensed occupation lawfully; prohibiting the government to impose a penalty, fine, or fee on individuals privately licensed; requiring signage of privately licensed individuals; providing necessary information on signage; providing allowable terms for privately licensed individuals to use; establishing conditions for violations by the individual; authorizing the Secretary to terminate registration or participation of organization in violation of consumer protections; providing exceptions not limiting government enactment and enforcement; prohibiting certain actions; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 4160 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Government" means this state and its political  
6 subdivisions;

7 2. "Lawful occupation" means a course of conduct, pursuit, or  
8 profession that includes the sale of goods or services that is not  
9 itself illegal irrespective of an occupational regulation;

10 3. "Occupational regulation" means a statute, ordinance, rule,  
11 or other requirement in law that requires an individual to possess  
12 certain personal qualifications to work in a lawful occupation;

13 4. "Qualifications" means a criteria related to an individual's  
14 personal background that may include completion of an approved  
15 educational program, satisfactory performance on an examination,  
16 work experience, criminal history, moral standing, completion of  
17 continuing education, a standard of ethical behavior, or other  
18 criteria as determined by a private certifying organization to  
19 qualify the individual to perform a service to an acceptable  
20 standard as determined by the private certifying organization;

21 5. "Private certification" means a nontransferable recognition  
22 by a private certification organization that an individual meets  
23 qualifications determined by the private certifying organization;

1           6. "Private certifying organization" means a nongovernmental  
2 organization that allows any individual to apply for private  
3 certification regardless of the individual's race, creed, color,  
4 ethnicity, national origin, religion, sex, sexual orientation, or  
5 marital status;

6           7. "Participating private certifying organization" means a  
7 private certifying organization that registers and otherwise meets  
8 the criteria specified in subsection C of Section 2 of this act; and

9           8. "Private certified" is a designated title that an individual  
10 may use if the individual is certified by a participating private  
11 certifying organization.

12           SECTION 2.        NEW LAW        A new section of law to be codified  
13 in the Oklahoma Statutes as Section 4160.1 of Title 59, unless there  
14 is created a duplication in numbering, reads as follows:

15           A. A private certifying organization may voluntarily  
16 participate and register with the government under this section.

17           B. To participate, a private certification organization shall  
18 register with the Secretary of State. It shall provide the  
19 Secretary with the organization's name, address, officers, and the  
20 names of individuals initially privately certified. The Secretary  
21 may impose a registration fee to recoup its costs and promulgate  
22 rules and forms to facilitate registration.

23           C. A participating private certifying organization shall:  
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1 1. Publish on a publicly accessible website all of the  
2 following:

3 a. the scope of practice of each lawful occupation that  
4 the organization certifies,

5 b. the qualifications that an individual must possess to  
6 become certified by the private certifying  
7 organization,

8 c. other factors the private certifying organization uses  
9 to certify individuals, which may include consumer  
10 comments, rankings, and other consumer-initiated  
11 elements,

12 d. the names, business addresses, and websites of all  
13 individuals privately certified by the organization,  
14 and

15 e. the state in which the private certifying organization  
16 is registered;

17 2. Require qualifications that are related to the lawful  
18 occupation for which an individual is certified;

19 3. Verify an individual's qualifications before certification  
20 and periodically verify that the certified individual remains  
21 eligible for certification;

22 4. Require a privately certified individual to prominently  
23 display the private certification and make available material about  
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1 the qualification and other factors required for the private  
2 certification on request; and

3 5. Have at least fifty (50) privately certified individuals in  
4 active practice in the United States after one (1) year of applying  
5 for registration with the Secretary.

6 D. A participating private certifying organization may require  
7 individuals it certifies to obtain and maintain a bond for liability  
8 that is related to the practice of the individual's privately  
9 certified lawful occupation.

10 E. A participating private certification organization may  
11 require a privately certified individual to pay initial and ongoing  
12 fees.

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 4160.2 of Title 59, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. An individual who is certified by a participating private  
17 certifying organization may engage in the lawful occupation for  
18 which that individual is privately certified notwithstanding any  
19 other occupational regulation enacted by the government.

20 B. The government shall not prohibit or impose a penalty, fine,  
21 or fee on an individual who is certified by a participating private  
22 certifying organization for engaging in a lawful occupation in  
23 compliance with this act.

1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 4160.3 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. An individual who is certified by a participating private  
5 certifying organization and who engages in a lawful occupation for  
6 which the government has otherwise enacted an occupation regulation  
7 shall prominently display a sign with lettering that is at least one  
8 (1) inch in height stating:

- 9 1. The government licenses the service;
- 10 2. The individual is not licensed by the government;
- 11 3. The individual is privately certified with the name of the  
12 private certifying organization; and
- 13 4. The contact information for the private certification  
14 organization.

15 B. An individual who is certified by a participating private  
16 certifying organization and who is not licensed, registered, or  
17 certified by the government shall not use the term "licensed",  
18 "certified", or "registered" to describe the individual's credential  
19 or any words, titles, abbreviations, or letters that would induce a  
20 reasonably knowledgeable consumer of such services to believe the  
21 privately certified individual using them is occupationally  
22 regulated by the government.

23 C. An individual who is certified by a participating private  
24 certifying organization may use the term "privately certified" to

1 describe the individual's credentials or as part of a title or  
2 designation.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 4160.4 of Title 59, unless there  
5 is created a duplication in numbering, reads as follows:

6 An individual who knowingly and falsely claims to be privately  
7 certified pursuant to this act is guilty of fraud and subject to  
8 penalties under the Oklahoma Consumer Protection Act.

9 SECTION 6. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 4160.5 of Title 59, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. The Secretary of State shall enforce this act and has the  
13 authority to terminate the government's registration of the  
14 participating private certifying organization for failure to  
15 continue to meet the requirements in subsection C of Section 2 of  
16 this act.

17 B. The participating private certifying organization that  
18 continues to operate ninety (90) days after failing to meet the  
19 requirements in subsection C of Section 2 of this act is guilty of  
20 fraud and subject to punishment under the Oklahoma Consumer  
21 Protection Act.

22 C. Except to the extent that this act requires a privately  
23 certified individual to possess qualifications established by the  
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1 government to perform a lawful occupation, this act shall not limit  
2 the government's authority to enact and enforce laws relating to:

3 1. A business license or permit, facility license, building  
4 permit, or land use regulation; and

5 2. Public health, safety, and environmental regulations through  
6 the enforcement of regulations other than occupational licenses  
7 including the sale and use of substances that endanger public health  
8 and safety if mishandled or improperly dispensed including  
9 chemicals, explosives, and pharmaceuticals.

10 D. Nothing in this act shall be construed to:

11 1. Change the government's sole authority to require an  
12 individual to obtain and maintain a government-issued driver license  
13 and related insurance for personal or commercial vehicle use;

14 2. Limit damages in a private civil action against an  
15 individual who is privately certified or who knowingly and falsely  
16 claims to be privately certified;

17 3. Require a private party or the government to do business  
18 with an individual who is not licensed, certified, or registered  
19 with the government;

20 4. Create a cause of action against a private party or the  
21 government;

22 5. Allow for private certification of occupations regulated by  
23 the federal government or required by federal law to be  
24 occupationally licensed by the government;

- 1       6. Require a private certification organization to participate
- 2 and register with the government under this act;
- 3       7. Increase the authority of the government to regulate
- 4 nonparticipating private certification organizations;
- 5       8. Require doctors and other medical professionals to obtain
- 6 operating room privileges or other credentials from the state,
- 7 hospitals, or clinics to perform surgery or an operation; or
- 8       9. Reduce the authority of the Supreme Court to regulate who
- 9 may issue subpoenas, serve discovery, and litigate cases before
- 10 state judges.

11       SECTION 7. This act shall become effective November 1, 2023.

13       59-1-425           MR           1/19/2023 10:22:00 AM

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