





## 2021 FEDERAL LEGISLATIVE WATCHLIST


Last updated: December 7, 2021

### KEY

 = High Priority

 \*2020\* = Carryover bill from 2020 Watchlist

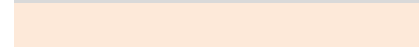
 \*REPEAT\* = Reintroduced bill from the 2020 Watchlist

 \*NEW\* = Bill summarized for the first time in current version of Watchlist

Dead



Under consideration in one chamber



Passed one chamber and under consideration in the other



Awaiting governor's signature



Enacted



Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
<a href="#">S. 1084</a>	4/13/2021	Sen. Mike Lee (R)	Read twice and referred to Senate Armed Services Committee (4/13/2021)	In Senate	Monitor and suggest amendments if movement	Medium
Bill Summary	<ul style="list-style-type: none"> <li>• Category: Reciprocity</li> <li>• Titled the “Military Spouse Licensing Relief Act of 2021”</li> <li>• Amends the Servicemembers Civil Relief Act by introducing “Section 705A. Portability of professional licenses of servicemembers and their spouses.”</li> <li>• Applies to servicemembers and servicemember spouses (1) with a professional license, (2) in good standing in a jurisdiction. However, if a servicemember or spouse is licensed and able to operate in multiple jurisdictions through an interstate licensure compact, that licensed individual is subject to the requirements of the compact or the applicable State legal provisions and not this section.</li> <li>• Requires that a jurisdiction to which a servicemembers or spouse has relocated because of military orders for military service consider the relocated servicemember’s or spouse’s professional license “valid at a similar scope of practice” for the duration of a relocation to a location outside of the licensed jurisdiction.</li> <li>• Requires that the servicemember or spouse: (1) provide a copy of such military orders to the licensing authority in the new residency jurisdiction; (2) remains in good standing with the issuing licensing authority; and (3) for the purpose of standards of practice, discipline, and fulfillment of any continuing education requirements, submit to the licensing authority in the new jurisdiction.</li> </ul>					
Comments and Proposed Changes	<ul style="list-style-type: none"> <li>• Overall, this bill avoids many of the objectionable provisions in some state reciprocity bills, such as providing for work experience as a substitute for another state’s licensure or allowing for perpetual exemptions from licensure requirements. With limited improvements, the PCC could support this bill’s passage, especially as it might stem the introduction of more poorly drafted state reciprocal licensure bills.</li> <li>• The term “certification” is used only once in the bill and is potentially a drafting error. The bill applies only to servicemembers and their spouses who hold “a professional license in good standing” in another jurisdiction. But the bill says that the jurisdiction to which they are relocating shall consider valid “the professional license or certification” of the individual. “Certification” is not mentioned again and should be deleted so that the bill doesn’t create confusion.</li> <li>• There’s no requirement of substantial equivalency of qualifications for the licenses in the two jurisdictions. This is common for military reciprocity bills because the servicemember and spouse may have</li> </ul>					

	<p>to relocate on short notice. Ideally, however, this would be limited to initial reciprocal licensure only, and provide that the reciprocal license is a provisional period, after which reciprocity will be granted only if the individual can show the individual has met the qualifications for licensure required of any other resident of the state.</p> <ul style="list-style-type: none"> <li>• Because it applies only to servicemembers and their spouses relocating due to military orders only for the duration of such military orders, it is not a perpetual exemption.</li> <li>• It grants reciprocity only to individuals who are actively licensed and in good standing in another state, and only to the extent of the scope of practice of the out-of-state license. No alternative pathways based on work experience.</li> <li>• As a condition of the reciprocity grant, the individual must “submit to the authority of the licensing authority in the new jurisdiction for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.”</li> <li>• If an interstate compact covers the licensee, that takes precedence over this law.</li> </ul>
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Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
<a href="#">H.R. 2171</a>	3/23/2021	Rep. Abigail Spanberger (D)	Referred to the House Ways & Means Committee(3/23/2021)	In House	Support	N/A
<a href="#">S. 905</a>	3/23/2021	Sen. Amy Klobuchar (D)	Read twice and referred to the Senate Finance Committee (3/23/2021)	In Senate	Support	N/A
Bill Summary	<ul style="list-style-type: none"> <li>• Titled “Freedom to Invest in Tomorrow's Workforce Act”</li> <li>• Amends the Internal Revenue Code of 1986 by introducing to Section 529(e)(3) subparagraph “(C) CERTAIN CAREER TRAINING AND CREDENTIALING EXPENSES.”</li> <li>• Intent: to permit certain expenses associated with obtaining or maintaining recognized postsecondary credentials to be treated as qualified higher education expenses for purposes of 529 accounts.</li> <li>• <u>Defining ‘qualified higher education expenses’:</u></li> </ul>					

	<ul style="list-style-type: none"> <li>○ House bill includes: <ul style="list-style-type: none"> <li>▪ (I) tuition, fees, books, supplies, and equipment required for the enrollment or attendance in a recognized postsecondary credential program, or, if covered under subparagraph (e)(3)(A), any other expense incurred in connection with enrollment in or attendance at a recognized postsecondary credential program;</li> <li>▪ (II) fees required to obtain or maintain a recognized postsecondary credential (per section 3(52) of the Workforce Innovation and Opportunity Act), including (1) certificate or certification programs that are accredited by the National Commission on Certifying Agencies or American National Standards Institute, or (2) postsecondary credentials identified in regulations or guidance promulgated by the IRS, in consultation with the Department of Labor, for purposes of this subclause; and</li> <li>▪ (III) fees for testing and other fees required by the organization issuing the recognized postsecondary credential as a condition of maintaining or obtaining the credential.</li> </ul> </li> <li>○ <u>Senate bill includes (I), and combines elements (II) &amp; (III)</u> to cover fees required to obtain or maintain recognized postsecondary credentials, which includes testing fees, and does not include the enumerated elements in House definition part (II).</li> <li>• <u>Defining “Recognized Postsecondary Credential Program”</u> (House &amp; Senate): a program to obtain a recognized postsecondary credential if that program 1) is included on a list prepared under section 122(d) of the Workforce Innovation and Opportunity Act or 2) meets the training or educational prerequisites to qualify an individual to take an examination developed or administered by an organization widely recognized as providing reputable credentials in the occupation, where such examination is required to obtain or maintain a recognized postsecondary credential.</li> <li>• <u>Defining “Recognized Postsecondary Credential”</u> (Senate only): <ul style="list-style-type: none"> <li>○ As defined by section 3(52) of the Workforce Innovation and Opportunity Act (but an industry-recognized credential shall be for a program for which a provider is eligible under section 122 of that Act).</li> <li>○ Includes certificate or certification program accredited by the 1) National Commission for Certifying Agencies or 2) American National Standards Institute, or 3) other postsecondary credential</li> </ul> </li> </ul>
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	<p>recognized for this subparagraph under regulations or guidance provided by the Secretary, in consultation with the Secretary of Labor.</p> <ul style="list-style-type: none"> <li>• Effective Date (House &amp; Senate): The amendment shall apply to expenses paid or incurred in taxable years beginning after the Act’s enactment date.</li> </ul>
Comments and Proposed Changes	<ul style="list-style-type: none"> <li>• The PCC was instrumental in drafting language for and advocating for the introduction of this bill. The PCC supports this bill because it provides broader access through tax-favorable accounts for individuals to pay for themselves or their beneficiaries to prepare for and obtain professional certifications.</li> <li>• Rep. Spanberger’s office is in discussions with the House Ways &amp; Means Committee about potential amendments to the bill.</li> </ul>

Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
<a href="#">H.R. 3147</a>	5/12/2021	Rep. Darrell Issa (R)	Referred to the Subcommittee on Antitrust, Commercial, and Administrative Law (11/9/2021)	In House	Monitor and, if moves, suggest amendments to Committee	Medium
Bill Summary	<ul style="list-style-type: none"> <li>• Titled the “Restoring Board Immunity Act” or the “RBI Act”</li> <li>• Defines “certification” as “a voluntary program under which a private organization or the government of a State authorizes an individual who meets certain personal qualifications to use ‘certified’ as a designated title with respect to the performance of a lawful occupation; and a non-certified individual may perform the lawful occupation for compensation but may not use the title ‘certified.’”</li> <li>• Extends immunity under the Sherman Act to a state occupational licensing board so long as the state either: (1) enacts legislation providing for “active supervision” of occupational licensing boards and provides for a private right of action to challenge the regulation; or (2) enacts legislation allowing for judicial review of the state’s occupational licensing laws. <ul style="list-style-type: none"> <li>○ Legislation providing active supervision must: (1) establish an Office of Supervision of Occupational Boards to review occupational regulations; (2) provide avenues for residents to contest state licensing regulations with the Office; and (3) empower the office to periodically review existing and proposed occupational regulations.</li> </ul> </li> </ul>					

	<ul style="list-style-type: none"> <li>• Legislation providing judicial review of its occupational licensing laws must create a cause of action for a person to seek injunctive relief against the enforcement of a state occupational licensing law. To defend against a suit brought under the Act, the state must demonstrate by clear and convincing evidence that the challenged occupational regulation “advances an important government interest in protecting against real, substantial threats to public health, safety, or welfare; <u>and</u> is substantially related to achievement of the important government interest described, in light of the availability of less restrictive alternatives to occupational licensing.”</li> <li>• The reviewing agency or court in a challenge to a regulation of a board under active supervision by the state may not grant any presumption to a legislative determination of harm to public health, safety, or welfare; or that the occupational regulation is substantially related to achievement of the important government interest.</li> <li>• State legislation providing for judicial review of occupational licensing regulation must permit injunctive relief and a grant of attorney’s fees to a successful plaintiff and may not authorize a court to— <ul style="list-style-type: none"> <li>○ (A) uphold enforcement of an occupational licensing law of the State simply because the court believes the law is rationally related to a legitimate governmental purpose;</li> <li>○ (B) rely on hypothetical risks to public safety, not substantiated by evidence in the record, to uphold enforcement of an occupational licensing law of the State;</li> <li>○ (C) defer to factual or legal conclusions of another person or entity, rather than exercising independent review; or</li> <li>○ (D) rely on a post hoc justification for the action of an occupational licensing board that was not put forward by the board at the time of the challenged action</li> </ul> </li> </ul>
<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"> <li>• This bill does not mandate any changes to state licensing laws. Rather, it offers immunity from antitrust enforcement to state boards if the state adopts the changes to their occupational licensing laws contemplated in the statute. Ultimately, it is up to states whether they want to follow this approach.</li> <li>• The definition of certification is not problematic because it presents private or governmental certification as a possible alternative to licensure for consideration by states and because it only applies to voluntary certifications in which licensure is not required to practice the requirement.</li> </ul>

	<ul style="list-style-type: none"> <li>• States accepting the immunity offer must permit challengers to occupational regulations to have a thumb on the scale, similar to state “Right to Earn a Living” Bills.</li> <li>• Propose safe harbor provision be added to bill exempt from challenge licensure laws that rely on certification and for which most states have adopted substantially similar licensing requirements.</li> </ul>
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Bill #	Introduced	Primary Sponsor(s)	Last Action	Status	Position	Priority
<a href="#">H.R. 3145</a> <b>*NEW*</b>	5/12/2021	Rep. Diana Harshbarger (R)	Referred to Committees on Oversight and Reform and Education and Labor (5/12/2021)	In House	Monitor	Low
Bill Summary		<ul style="list-style-type: none"> <li>• Titled the “Freedom to Work Act.”</li> <li>• Finds that “policymakers at all levels of government should require evidence to determine if there is a demonstrated need to regulate an occupation and should consider a range of less restrictive alternatives such as, quality ratings, voluntary third-party professional certifications, bonding or insurance, or inspection requirements.”</li> <li>• Mandates federal agencies review and reduce occupational licensing requirements within the agency for employees and contractors.</li> <li>• Requires federal executive agencies to review laws, regulations, and policies that impose licensing requirements for agency employees or that causes a state or locality to adopt an occupational licensing requirement for positions within their jurisdiction. Once an agency reviews these provisions, it must identify least restrictive changes it could make to eliminate licensing requirements while maintaining protection for consumer’s health and safety.</li> <li>• Amends the Workforce Innovation and Opportunity Act to require states to reduce occupational licensing barriers as part of their unified state plans.</li> </ul>				

<p>Comments and Proposed Changes</p>	<ul style="list-style-type: none"><li>• This bill does not directly mandate changes to state licensing laws. However, it would eliminate federal agency provisions that require licensing in state programs that they work with.</li><li>• The bill could have the effect of discouraging licensing in states by tying the receipt of funds under the Workforce Innovation and Opportunity Act to requirements for states to limit occupational licensing barriers as part of their unified state plans.</li></ul>
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