

**House Boards, Agencies and Commissions Engrossed
Substitute for HB246**



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A BILL
TO BE ENTITLED
AN ACT

Relating to the licensed practice of cosmetology; to provide and adopt the Cosmetology Licensure Compact to allow licensed cosmetologists to practice pursuant to a multistate license among compact states in a limited manner; to provide eligibility requirements for licensed cosmetologists to practice cosmetology pursuant to the compact; to provide for a coordinated licensure information system, joint investigations, and disciplinary actions; to establish the Cosmetology Licensure Compact Commission; to provide for the membership, powers, duties, and rulemaking functions of the commission; and to provide for oversight of the compact, enforcement of the compact, default procedures, dispute resolution, withdrawal of compact states, and amendments to the compact.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Purpose.

(a) The purpose of this compact is to facilitate the interstate practice and regulation of cosmetology with the goal of improving public access to, and the safety of, cosmetology services and reducing unnecessary burdens related



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29 to cosmetology licensure. Through this compact, the member
30 states seek to establish a regulatory framework which provides
31 for a new multistate licensing program. Through this new
32 licensing program, the member states seek to provide increased
33 value and mobility to licensed cosmetologists in the member
34 states, while ensuring the provision of safe, effective, and
35 reliable services to the public.

36 (b) This compact is designed to achieve the following
37 objectives, and the member states ratify the same intentions,
38 by subscribing to all of the following:

39 (1) Provide opportunities for interstate practice by
40 cosmetologists who meet uniform requirements for multistate
41 licensure.

42 (2) Enhance the abilities of member states to protect
43 public health and safety, and prevent fraud and unlicensed
44 activity within the profession.

45 (3) Ensure and encourage cooperation between member
46 states in the licensure and regulation of the practice of
47 cosmetology.

48 (4) Support relocating military members and their
49 spouses.

50 (5) Facilitate the exchange of information between
51 member states related to the licensure, investigation, and
52 discipline of the practice of cosmetology.

53 (6) Provide for the licensure and mobility of the
54 workforce in the profession, while addressing the shortage of
55 workers and lessening the associated burdens on the member
56 states.



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57 Section 2. Definitions.

58 As used in this compact, and except as otherwise
59 provided, the following definitions shall govern the terms
60 herein:

61 (1) ACTIVE ~~DUTY~~ MILITARY **MEMBER**. Any individual in
62 full-time duty status in the **active-uniformed service Armed**
63 **Forces** of the United States including members of the National
64 Guard and Reserve.

65 (2) ADVERSE ACTION. Any administrative, civil,
66 equitable, or criminal action permitted by a member state's
67 laws which is imposed by a state licensing authority or other
68 regulatory body against a cosmetologist, including actions
69 against an individual's license or authorization to practice,
70 such as revocation, suspension, probation, monitoring of the
71 licensee, limitation of the licensee's practice, or any other
72 encumbrance on a license affecting an individual's ability to
73 participate in the cosmetology industry, including the
74 issuance of a cease and desist order.

75 (3) ALTERNATIVE PROGRAM. A non-disciplinary monitoring
76 or prosecutorial diversion program approved by a member
77 state's state licensing authority.

78 (4) AUTHORIZATION TO PRACTICE. A legal authorization
79 associated with a multistate license permitting the practice
80 of cosmetology in that remote state, which shall be subject to
81 the enforcement jurisdiction of the state licensing authority
82 in that remote state.

83 (5) BACKGROUND CHECK. The submission of information for
84 an applicant for the purpose of obtaining that applicant's



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85 criminal history record information, as further defined in 28
86 C.F.R. § 20.33, from the Federal Bureau of Investigation and
87 the agency responsible for retaining state criminal or
88 disciplinary history in the applicant's home state.

89 (6) CHARTER MEMBER STATE. Member states that have
90 enacted legislation to adopt this compact where the
91 legislation predates the effective date of this compact as
92 defined in Section 13.

93 (7) COMMISSION. The government agency whose membership
94 consists of all states that have enacted this compact, which
95 is known as the Cosmetology Licensure Compact Commission, as
96 defined in Section 9, and which shall operate as an
97 instrumentality of the member states.

98 (8) COSMETOLOGIST. An individual licensed in his or her
99 home state to practice cosmetology.

100 (9) COSMETOLOGY, COSMETOLOGY SERVICES, and the PRACTICE
101 OF COSMETOLOGY. The care and services provided by a
102 cosmetologist as set forth in the member state's statutes and
103 rules in the state where the services are being provided.

104 (10) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION:
105 Either of the following:

106 a. Investigative information that a state licensing
107 authority, after an inquiry or investigation that complies
108 with a member state's due process requirements, has reason to
109 believe is not groundless and, if proved true, would indicate
110 a violation of that state's laws regarding fraud or the
111 practice of cosmetology.

112 b. Investigative information that indicates that a



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113 licensee has engaged in fraud or represents an immediate
114 threat to public health and safety, regardless of whether the
115 licensee has been notified and had an opportunity to respond.

116 (11) DATA SYSTEM. A repository of information about
117 licensees including, but not limited to, license status,
118 investigative information, and adverse actions.

119 (12) DISQUALIFYING EVENT. Any event which shall
120 disqualify an individual from holding a multistate license
121 under this compact, which the commission may by rule or order
122 specify.

123 (13) ENCUMBRANCE. A revocation or suspension of, or any
124 limitation on, the full and unrestricted practice of
125 cosmetology by a state licensing authority.

126 (14) EXECUTIVE COMMITTEE. A group of delegates elected
127 or appointed to act on behalf of, and within the powers
128 granted to them by, the commission.

129 (15) HOME STATE. The member state which is a licensee's
130 primary state of residence, and where that licensee holds an
131 active and unencumbered license to practice cosmetology.

132 (16) INVESTIGATIVE INFORMATION. Information, records,
133 or documents received or generated by a state licensing
134 authority pursuant to an investigation or other inquiry.

135 (17) JURISPRUDENCE REQUIREMENT. The assessment of an
136 individual's knowledge of the laws and rules governing the
137 practice of cosmetology in a state.

138 (18) LICENSEE. An individual who currently holds a
139 license from a member state to practice as a cosmetologist.

140 (19) MEMBER STATE. Any state that has adopted this



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141 compact.

142 (20) MULTISTATE LICENSE. A license issued by and
143 subject to the enforcement jurisdiction of the state licensing
144 authority in a licensee's home state, which authorizes the
145 practice of cosmetology in member states and includes
146 authorizations to practice cosmetology in all remote states
147 pursuant to this compact.

148 (21) REMOTE STATE. Any member state, other than the
149 licensee's home state.

150 (22) RULE. Any rule or regulation adopted by the
151 commission under this compact which has the force of law.

152 (23) SINGLE-STATE LICENSE. A cosmetology license issued
153 by a member state that authorizes practice of cosmetology only
154 within the issuing state and does not include any
155 authorization outside of the issuing state.

156 (24) STATE. A state, territory, or possession of the
157 United States and the District of Columbia.

158 (25) STATE LICENSING AUTHORITY. A member state's
159 regulatory body responsible for issuing cosmetology licenses
160 or otherwise overseeing the practice of cosmetology in that
161 state.

162 Section 3. Member state requirements.

163 (a) To be eligible to join this compact, and to
164 maintain eligibility as a member state, a state must do all of
165 the following:

166 (1) License and regulate cosmetology.

167 (2) Have a mechanism or entity in place to receive and
168 investigate complaints about licensees practicing in that

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169 state.

170 (3) Require that licensees within the state pass a
171 cosmetology competency examination prior to being licensed to
172 provide cosmetology services to the public in that state.

173 (4) Require that licensees satisfy educational or
174 training requirements in cosmetology prior to being licensed
175 to provide cosmetology services to the public in that state.

176 (5) Implement procedures for considering one or more of
177 the following categories of information from applicants for
178 licensure: Criminal history; disciplinary history; or
179 background check. The procedures may include the submission of
180 information by applicants for the purpose of obtaining an
181 applicant's background check.

182 (6) Participate in the data system, including through
183 the use of unique identifying numbers.

184 (7) Share information related to adverse actions with
185 the commission and other member states, both through the data
186 system and otherwise.

187 (8) Notify the commission and other member states, in
188 compliance with the terms of the compact and rules of the
189 commission, of the existence of investigative information or
190 current significant investigative information in the state's
191 possession regarding a licensee practicing in that state.

192 (9) Comply with rules adopted by the commission to
193 administer the compact.

194 (10) Accept licensees from other member states as
195 established herein.

196 (b) Member states may charge a fee for granting a

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197 license to practice cosmetology.

198 (c) Individuals not residing in a member state shall
199 continue to be able to apply for a member state's single-state
200 license as provided under the laws of each member state.
201 However, the single-state license granted to these individuals
202 shall not be recognized as granting a multistate license to
203 provide services in any other member state.

204 (d) Nothing in this compact shall affect the
205 requirements established by a member state for the issuance of
206 a single-state license.

207 (e) A multistate license issued to a licensee by a home
208 state to a resident of that state shall be recognized by each
209 member state as authorizing a licensee to practice cosmetology
210 in each member state.

211 (f) At no point shall the commission have the power to
212 define the educational or professional requirements for a
213 license to practice cosmetology. The member states shall
214 retain sole jurisdiction over the provision of these
215 requirements.

216 Section 4. Multistate license.

217 (a) To be eligible to apply to his or her home state's
218 state licensing authority for an initial multistate license
219 under this compact, a licensee must hold an active and
220 unencumbered single-state license to practice cosmetology in
221 his or her home state.

222 (b) Upon the receipt of an application for a multistate
223 license, according to the rules of the commission, a member
224 state's state licensing authority shall ascertain whether the



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225 applicant meets the requirements for a multistate license
226 under this compact.

227 (c) If an applicant meets the requirements for a
228 multistate license under this compact and any applicable rules
229 of the commission, the state licensing authority in receipt of
230 the application, within a reasonable time, shall grant a
231 multistate license to that applicant, and inform all member
232 states of the grant of the multistate license.

233 (d) A multistate license to practice cosmetology issued
234 by a member state's state licensing authority shall be
235 recognized by each member state as authorizing the practice
236 thereof as though that licensee held a single-state license to
237 do so in each member state, subject to the restrictions
238 herein.

239 (e) A multistate license granted pursuant to this
240 compact may be effective for a definite period of time,
241 concurrent with the licensure renewal period in the home
242 state.

243 (f) To maintain a multistate license under this
244 compact, a licensee shall do all of the following:

245 (1) Agree to abide by the rules of the state licensing
246 authority, and the state scope of practice laws governing the
247 practice of cosmetology, of any member state in which the
248 licensee provides services.

249 (2) Pay all required fees related to the application
250 and process, and any other fees which the commission may by
251 rule require.

252 (3) Comply with any and all other requirements



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253 regarding multistate licenses which the commission may by rule
254 provide.

255 (g) A licensee practicing in a member state is subject
256 to all scope of practice laws governing cosmetology services
257 in that state.

258 (h) The practice of cosmetology under a multistate
259 license granted pursuant to this compact shall subject the
260 licensee to the jurisdiction of the state licensing authority,
261 the courts, and the laws of the member state in which the
262 cosmetology services are provided.

263 Section 5. Reissuance of a multistate license by a new
264 home state.

265 (a) A licensee may hold a multistate license, issued by
266 his or her home state, in only one member state at any given
267 time.

268 (b) If a licensee changes his or her home state by
269 moving between two member states:

270 (1) The licensee shall immediately apply for the
271 reissuance of his or her multistate license in his or her new
272 home state. The licensee shall pay all applicable fees and
273 notify the prior home state in accordance with the rules of
274 the commission.

275 (2) Upon receipt of an application to reissue a
276 multistate license, the new home state shall verify that the
277 multistate license is active, unencumbered, and eligible for
278 reissuance under the terms of the compact and the rules of the
279 commission. The multistate license issued by the prior home
280 state shall be deactivated and all member states notified in



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281 accordance with the applicable rules adopted by the
282 commission.

283 (3) If required for initial licensure, the new home
284 state may require a background check as specified in the laws
285 of that state, or the compliance with any jurisprudence
286 requirements of the new home state.

287 (4) Notwithstanding any other provision of this
288 compact, if a licensee does not meet the requirements set
289 forth in this compact for the reissuance of a multistate
290 license by the new home state, then the licensee shall be
291 subject to the new home state requirements for the issuance of
292 a single-state license in that state.

293 (c) If a licensee changes his or her primary state of
294 residence by moving from a member state to a non-member state,
295 or from a non-member state to a member state, then the
296 licensee shall be subject to the state requirements for the
297 issuance of a single-state license in the new home state.

298 (d) Nothing in this compact shall interfere with a
299 licensee's ability to hold a single-state license in multiple
300 states; however, for the purposes of this compact, a licensee
301 shall have only one home state, and only one multistate
302 license.

303 (e) Nothing in this compact shall interfere with the
304 requirements established by a member state for the issuance of
305 a single-state license.

306 Section 6. Authority of the compact commission and
307 member state licensing authorities.

308 (a) Nothing in this compact, nor any rule of the



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309 commission, shall be construed to limit, restrict, or in any
310 way reduce the ability of a member state to enact and enforce
311 laws, regulations, or other rules related to the practice of
312 cosmetology in that state, where those laws, regulations, or
313 other rules are not inconsistent with this compact.

314 (b) Insofar as practical, a member state's state
315 licensing authority shall cooperate with the commission and
316 with each entity exercising independent regulatory authority
317 over the practice of cosmetology according to this compact.

318 (c) Discipline shall be the sole responsibility of the
319 state in which cosmetology services are provided. Accordingly,
320 each member state's state licensing authority shall be
321 responsible for receiving complaints about individuals
322 practicing cosmetology in that state, and for communicating
323 all relevant investigative information about any adverse
324 action to the other member states through the data system in
325 addition to any other methods the commission may by rule
326 require.

327 Section 7. Adverse actions.

328 (a) A licensee's home state shall have exclusive power
329 to impose an adverse action against a licensee's multistate
330 license issued by the home state.

331 (b) A home state may take adverse action on a
332 multistate license based on the investigative information,
333 current significant investigative information, or adverse
334 action of a remote state.

335 (c) In addition to the powers conferred by state law,
336 each remote state's state licensing authority shall have the



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337 power to do all of the following:

338 (1) Take adverse action against a licensee's
339 authorization to practice cosmetology through the multistate
340 license in that member state, provided that:

341 a. Only the licensee's home state shall have the power
342 to take adverse action against the multistate license issued
343 by the home state; and

344 b. For the purposes of taking adverse action, the home
345 state's state licensing authority shall give the same priority
346 and effect to reported conduct received from a remote state as
347 it would if the conduct had occurred within the home state. In
348 so doing, the home state shall apply its own state laws to
349 determine the appropriate action.

350 (2) Issue cease and desist orders or impose an
351 encumbrance on a licensee's authorization to practice within
352 that member state.

353 (3) Complete any pending investigations of a licensee
354 who changes his or her primary state of residence during the
355 course of an investigation. The state licensing authority
356 shall also be empowered to report the results of an
357 investigation to the commission through the data system as
358 described herein.

359 (4) Issue subpoenas for both hearings and
360 investigations that require the attendance and testimony of
361 witnesses, as well as the production of evidence. Subpoenas
362 issued by a state licensing authority in a member state for
363 the attendance and testimony of witnesses or the production of
364 evidence from another member state shall be enforced in the

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365 latter state by any court of competent jurisdiction, according
366 to the practice and procedure of that court applicable to
367 subpoenas issued in proceedings before the court. The issuing
368 state licensing authority shall pay any witness fees, travel
369 expenses, mileage, and other fees required by the service
370 statutes of the state in which the witnesses or evidence are
371 located.

372 (5) If otherwise permitted by state law, recover from
373 the affected licensee the costs of investigations and
374 disposition of cases resulting from any adverse action taken
375 against that licensee.

376 (6) Take adverse action against the licensee's
377 authorization to practice in that state based on the factual
378 findings of another remote state.

379 (d) A licensee's home state shall complete any pending
380 investigation of a cosmetologist who changes his or her
381 primary state of residence during the course of the
382 investigation. The home state shall also have the authority to
383 take appropriate action and shall promptly report the
384 conclusions of the investigations to the data system.

385 (e) If an adverse action is taken by the home state
386 against a licensee's multistate license, the licensee's
387 authorization to practice in all other member states shall be
388 deactivated until all encumbrances have been removed from the
389 home state license. All home state disciplinary orders that
390 impose an adverse action against a licensee's multistate
391 license shall include a statement that the cosmetologist's
392 authorization to practice is deactivated in all member states



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393 during the pendency of the order.

394 (f) Nothing in this compact shall override a member
395 state's authority to accept a licensee's participation in an
396 alternative program in lieu of adverse action. A licensee's
397 multistate license shall be suspended for the duration of the
398 licensee's participation in any alternative program.

399 (g) Joint investigations.

400 (1) In addition to the authority granted to a member
401 state by its respective scope of practice laws or other
402 applicable state law, a member state may participate with
403 other member states in joint investigations of licensees.

404 (2) Member states shall share any investigative,
405 litigation, or compliance materials in furtherance of any
406 joint or individual investigation initiated under the compact.

407 Section 8. Active duty military members and their
408 spouses.

409 Active duty military personnel military members, or
410 their spouses, shall designate a home state where the
411 individual has a current license to practice cosmetology in
412 good standing. The individual may retain his or her home state
413 designation during any period of service when that individual
414 or his or her spouse is on active duty assignment.

415 Section 9. Establishment and operation of the
416 Cosmetology Licensure Compact Commission.

417 (a) The compact member states hereby create and
418 establish a joint government agency whose membership consists
419 of all member states that have enacted the compact known as
420 the Cosmetology Licensure Compact Commission. The commission



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421 is an instrumentality of the compact member states acting
422 jointly and not an instrumentality of any one state. The
423 commission shall come into existence on or after the effective
424 date of the compact as set forth in Section 13.

425 (b) Membership, voting, and meetings.

426 (1) Each member state shall have and be limited to one
427 delegate selected by that member state's state licensing
428 authority.

429 (2) The delegate shall be an administrator of the state
430 licensing authority of the member state or his or her
431 designee.

432 (3) The commission shall by rule or bylaw establish a
433 term of office for delegates and may by rule or bylaw
434 establish term limits.

435 (4) The commission may recommend removal or suspension
436 of any delegate from office.

437 (5) A member state's state licensing authority shall
438 fill any vacancy of its delegate occurring on the commission
439 within 60 days of the vacancy.

440 (6) Each delegate shall be entitled to one vote on all
441 matters that are voted on by the commission.

442 (7) The commission shall meet at least once during each
443 calendar year. Additional meetings may be held as set forth in
444 the bylaws. The commission may meet by telecommunication,
445 video conference or other similar electronic means.

446 (c) The commission shall do all of the following:

447 (1) Establish the fiscal year of the commission.

448 (2) Establish code of conduct and conflict of interest



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449 policies.

450 (3) Adopt rules and bylaws.

451 (4) Maintain its financial records in accordance with
452 the bylaws.

453 (5) Meet and take actions consistent with this compact,
454 the commission's rules, and the bylaws.

455 (6) Initiate and conclude legal proceedings or actions
456 in the name of the commission; provided that the standing of
457 any state licensing authority to sue or be sued under
458 applicable law shall not be affected.

459 (7) Maintain and certify records and information
460 provided to a member state as the authenticated business
461 records of the commission, and designate an agent to do so on
462 the commission's behalf.

463 (8) Purchase and maintain insurance and bonds.

464 (9) Borrow, accept, or contract for services of
465 personnel including, but not limited to, employees of a member
466 state.

467 (10) Conduct an annual financial review.

468 (11) Hire employees, elect or appoint officers, fix
469 compensation, define duties, grant individuals appropriate
470 authority to carry out the purposes of the compact, and
471 establish the commission's personnel policies and programs
472 relating to conflicts of interest, qualifications of
473 personnel, and other related personnel matters.

474 (12) As set forth in the commission rules, charge a fee
475 to a licensee for the grant of a multistate license and
476 thereafter, as may be established by commission rule, charge



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477 the licensee a multistate license renewal fee for each renewal
478 period. Nothing herein shall be construed to prevent a home
479 state from charging a licensee a fee for a multistate license
480 or renewals of a multistate license, or a fee for the
481 jurisprudence requirement if the member state imposes a
482 requirement for the grant of a multistate license.

483 (13) Assess and collect fees.

484 (14) Accept any and all appropriate gifts, donations,
485 grants of money, other sources of revenue, equipment,
486 supplies, materials, and services, and receive, utilize, and
487 dispose of the same; provided that the commission shall avoid
488 any appearance of impropriety or conflict of interest.

489 (15) Lease, purchase, retain, own, hold, improve, or
490 use any property, real, personal, or mixed, or any undivided
491 interest therein.

492 (16) Sell, convey, mortgage, pledge, lease, exchange,
493 abandon, or otherwise dispose of any property real, personal,
494 or mixed.

495 (17) Establish a budget and make expenditures.

496 (18) Borrow money.

497 (19) Appoint committees, including standing committees,
498 composed of members, state regulators, state legislators or
499 their representatives, and consumer representatives, and other
500 interested individuals as may be designated in this compact
501 and the bylaws.

502 (20) Provide and receive information from, and
503 cooperate with, law enforcement agencies.

504 (21) Elect a chair, vice chair, secretary, treasurer,



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505 and other officers of the commission as provided in the
506 commission's bylaws.

507 (22) Establish and elect an executive committee,
508 including a chair and a vice chair.

509 (23) Adopt and provide to the **participating member**
510 states an annual report.

511 (24) Determine whether a state's adopted language is
512 materially different from the model compact language such that
513 the state would not qualify for participation in the compact.

514 (25) Perform other functions as may be necessary or
515 appropriate to achieve the purposes of this compact.

516 (d) The executive committee.

517 (1) The executive committee shall have the power to act
518 on behalf of the commission according to the terms of this
519 compact. The powers, duties, and responsibilities of the
520 executive committee shall include all of the following:

521 a. Overseeing the day-to-day activities of the
522 administration of the compact including compliance with the
523 compact, the commission's rules and bylaws, and other duties
524 as deemed necessary.

525 b. Recommending to the commission changes to the rules
526 or bylaws, changes to this compact legislation, fees charged
527 to compact member states, fees charged to licensees, and other
528 fees.

529 c. Ensuring compact administration services are
530 appropriately provided, including by contract.

531 d. Preparing and recommending the budget.

532 e. Maintaining financial records on behalf of the



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533 commission.

534 f. Monitoring compact compliance of member states and
535 providing compliance reports to the commission.

536 g. Establishing additional committees as necessary.

537 h. Exercising the powers and duties of the commission
538 during the interim between commission meetings, except for
539 adopting or amending rules, adopting or amending bylaws, and
540 exercising any other powers and duties expressly reserved to
541 the commission by rule or bylaw.

542 i. Other duties as provided in the rules or bylaws of
543 the commission.

544 (2) The executive committee shall be composed of up to
545 seven voting members:

546 a. The chair and vice chair of the commission and any
547 other members of the commission who serve on the executive
548 committee shall be voting members of the executive committee.

549 b. Other than the chair, vice chair, secretary, and
550 treasurer, the commission shall elect three voting members
551 from the current membership of the commission.

552 c. The commission may elect ex officio, nonvoting
553 members from a recognized national cosmetology professional
554 association as approved by the commission. The commission's
555 bylaws shall identify qualifying organizations and the manner
556 of appointment if the number of organizations seeking to
557 appoint an ex officio member exceeds the number of members
558 specified in this section.

559 (3) The commission may remove any member of the
560 executive committee as provided in the commission's bylaws.



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561 (4) The executive committee shall meet at least
562 annually.

563 a. Annual executive committee meetings, as well as any
564 executive committee meeting at which the executive committee
565 does not take or intend to take formal action on a matter for
566 which a commission vote would otherwise be required, shall be
567 open to the public, except that the executive committee may
568 meet in a closed, non-public session of a public meeting when
569 dealing with any of the matters covered under subdivision (4)
570 of subsection (f).

571 b. The executive committee shall give five business
572 days' advance notice of its public meetings, posted on its
573 website and as determined to provide notice to individuals
574 with an interest in the public matters the executive committee
575 intends to address at those meetings.

576 (5) The executive committee may hold an emergency
577 meeting when acting for the commission to do any of the
578 following:

579 a. Meet an imminent threat to public health, safety, or
580 welfare.

581 b. Prevent a loss of commission or **participating member**
582 state funds.

583 c. Protect public health and safety.

584 (e) The commission shall adopt and provide to the
585 member states an annual report.

586 (f) Meetings of the commission.

587 (1) All meetings of the commission that are not closed
588 pursuant to subdivision (4) shall be open to the public.



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589 Notice of public meetings shall be posted on the commission's
590 website at least 30 days prior to the public meeting.

591 (2) Notwithstanding subdivision (1), the commission may
592 convene an emergency public meeting by providing at least 24
593 hours' prior notice on the commission's website, and any other
594 means as provided in the commission's rules, for any of the
595 reasons it may dispense with notice of proposed rulemaking
596 under subsection (1) of Section 11. The commission's legal
597 counsel shall certify that one of the reasons justifying an
598 emergency public meeting has been met.

599 (3) Notice of all commission meetings shall provide the
600 time, date, and location of the meeting, and if the meeting is
601 to be held or accessible via telecommunication, video
602 conference, or other electronic means, the notice shall
603 include the mechanism for access to the meeting.

604 (4) The commission may convene in a closed, non-public
605 meeting for the commission to discuss any of the following:

606 a. Non-compliance of a member state with its
607 obligations under the compact.

608 b. The employment, compensation, discipline, or other
609 matters, practices, or procedures related to specific
610 employees or other matters related to the commission's
611 internal personnel practices and procedures.

612 c. Current or threatened discipline of a licensee by
613 the commission or by a member state's licensing authority.

614 d. Current, threatened, or reasonably anticipated
615 litigation.

616 e. Negotiation of contracts for the purchase, lease, or



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617 sale of goods, services, or real estate.

618 f. Accusing any individual of a crime or formally
619 censuring any individual.

620 g. Trade secrets or commercial or financial information
621 that is privileged or confidential.

622 h. Information of a personal nature where disclosure
623 would constitute a clearly unwarranted invasion of personal
624 privacy.

625 i. Investigative records compiled for law enforcement
626 purposes.

627 j. Information related to any investigative reports
628 prepared by or on behalf of or for use of the commission or
629 other committee charged with responsibility of investigation
630 or determination of compliance issues pursuant to the compact.

631 k. Legal advice.

632 l. Matters specifically exempted from disclosure to the
633 public by federal or member state law.

634 m. Other matters as adopted by the commission by rule.

635 (5) If a meeting, or portion of a meeting, is closed,
636 the presiding officer shall state that the meeting will be
637 closed and reference each relevant exempting provision, and
638 the reference shall be recorded in the minutes.

639 (6) The commission shall keep minutes that fully and
640 clearly describe all matters discussed in a meeting and shall
641 provide a full and accurate summary of actions taken, and the
642 reasons therefore, including a description of the views
643 expressed. All documents considered in connection with an
644 action shall be identified in the minutes. All minutes and



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645 documents of a closed meeting shall remain under seal, subject
646 to release only by a majority vote of the commission or order
647 of a court of competent jurisdiction.

648 (g) Financing of the commission.

649 (1) The commission shall pay, or provide for the
650 payment of, the reasonable expenses of its establishment,
651 organization, and ongoing activities.

652 (2) The commission may accept any and all appropriate
653 sources of revenue, donations, and grants of money, equipment,
654 supplies, materials, and services.

655 (3) The commission may levy on and collect an annual
656 assessment from each member state and impose fees on licensees
657 of member states to whom it grants a multistate license to
658 cover the cost of the operations and activities of the
659 commission and its staff, which shall be in a total amount
660 sufficient to cover its annual budget as approved each year
661 for which revenue is not provided by other sources. The
662 aggregate annual assessment amount for member states shall be
663 allocated based upon a formula that the commission shall adopt
664 by rule.

665 (4) The commission shall not incur obligations of any
666 kind prior to securing the funds adequate to meet the same;
667 nor shall the commission pledge the credit of any member
668 states, except by and with the authority of the member state.

669 (5) The commission shall keep accurate accounts of all
670 receipts and disbursements. The receipts and disbursements of
671 the commission shall be subject to the financial review and
672 accounting procedures established under its bylaws. All



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673 receipts and disbursements of funds handled by the commission
674 shall be subject to an annual financial review by a certified
675 or licensed public accountant, and the report of the financial
676 review shall be included in and become part of the annual
677 report of the commission.

678 (h) Qualified immunity, defense, and indemnification.

679 (1) The members, officers, executive director,
680 employees, and representatives of the commission shall be
681 immune from suit and liability, ~~both personally and~~ in their
682 official capacity, for any claim for damage to or loss of
683 property or personal injury or other civil liability caused by
684 or arising out of any actual or alleged act, error, or
685 omission that occurred, or that the individual against whom
686 the claim is made had a reasonable basis for believing
687 occurred within the scope of commission employment, duties, or
688 responsibilities; provided that nothing in this subdivision
689 shall be construed to protect any individual from suit or
690 liability for any damage, loss, injury, or liability caused by
691 the intentional or willful or wanton misconduct of that
692 individual. The procurement of insurance of any type by the
693 commission shall not in any way compromise or limit the
694 immunity granted hereunder.

695 (2) The commission shall defend any member, officer,
696 executive director, employee, and representative of the
697 commission in any civil action seeking to impose liability
698 arising out of any actual or alleged act, error, or omission
699 that occurred within the scope of commission employment,
700 duties, or responsibilities, or as determined by the



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701 commission that the individual against whom the claim is made
702 had a reasonable basis for believing occurred within the scope
703 of commission employment, duties, or responsibilities;
704 provided that nothing herein shall be construed to prohibit
705 that individual from retaining his or her own counsel at his
706 or her own expense; and provided further, that the actual or
707 alleged act, error, or omission did not result from that
708 individual's intentional or willful or wanton misconduct.

709 (3) The commission shall indemnify and hold harmless
710 any member, officer, executive director, employee, and
711 representative of the commission for the amount of any
712 settlement or judgment obtained against that individual
713 arising out of any actual or alleged act, error, or omission
714 that occurred within the scope of commission employment,
715 duties, or responsibilities, or that the individual had a
716 reasonable basis for believing occurred within the scope of
717 commission employment, duties, or responsibilities, provided
718 that the actual or alleged act, error, or omission did not
719 result from the intentional or willful or wanton misconduct of
720 that individual.

721 (4) Nothing herein shall be construed as a limitation
722 on the liability of any licensee for professional malpractice
723 or misconduct, which shall be governed solely by any other
724 applicable state laws.

725 (5) Nothing in this compact shall be interpreted to
726 waive or otherwise abrogate a member state's state action
727 immunity or state action affirmative defense with respect to
728 antitrust claims under the Sherman Act, Clayton Act, or any



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729 other state or federal antitrust or anticompetitive law or
730 regulation.

731 (6) Nothing in this compact shall be construed to be a
732 waiver of sovereign immunity by the member states or by the
733 commission.

734 Section 10. Data system.

735 (a) The commission shall provide for the development,
736 maintenance, operation, and utilization of a coordinated
737 database and reporting system.

738 (b) The commission shall assign each applicant for a
739 multistate license a unique identifier, as determined by the
740 rules of the commission.

741 (c) Notwithstanding any other provision of state law to
742 the contrary, a member state shall submit a uniform data set
743 to the data system on all individuals to whom this compact is
744 applicable as required by the rules of the commission,
745 including:

746 (1) Identifying information.

747 (2) Licensure data.

748 (3) Adverse actions against a license and information
749 related thereto.

750 (4) Non-confidential information related to alternative
751 program participation, the beginning and ending dates of
752 participation, and other information related to participation.

753 (5) Any denial of application for licensure, and the
754 reasons for the denial, excluding the reporting of any
755 criminal history record information where prohibited by law.

756 (6) The existence of investigative information.



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757 (7) The existence of current significant investigative
758 information.

759 (8) Other information that may facilitate the
760 administration of this compact or the protection of the
761 public, as determined by the rules of the commission.

762 (d) The records and information provided to a member
763 state pursuant to this compact or through the data system,
764 when certified by the commission or an agent thereof, shall
765 constitute the authenticated business records of the
766 commission, and shall be entitled to any associated hearsay
767 exception in any relevant judicial, quasi-judicial, or
768 administrative proceedings in a member state.

769 (e) The existence of current significant investigative
770 information and the existence of investigative information
771 pertaining to a licensee in any member state shall only be
772 available to other member states.

773 (f) It is the responsibility of the member states to
774 monitor the database to determine whether adverse action has
775 been taken against a licensee or license applicant. Adverse
776 action information pertaining to a licensee or license
777 applicant in any member state shall be available to any other
778 member state.

779 (g) Member states contributing information to the data
780 system may designate information that may not be shared with
781 the public without the express permission of the contributing
782 state.

783 (h) Any information submitted to the data system that
784 is subsequently expunged pursuant to federal law or the laws



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785 of the member state contributing the information shall be
786 removed from the data system.

787 Section 11. Rulemaking.

788 (a) The commission shall adopt reasonable rules in
789 order to effectively and efficiently implement and administer
790 the purposes and provisions of this compact. A rule shall be
791 invalid and have no force or effect only if a court of
792 competent jurisdiction holds that the rule is invalid because
793 the commission exercised its rulemaking authority in a manner
794 that is beyond the scope and purposes of the compact, or the
795 powers granted hereunder, or based upon another applicable
796 standard of review.

797 (b) The rules of the commission shall have the force of
798 law in each member state. Where the rules of the commission
799 conflict with the laws of the member state that establish the
800 member state's scope of practice laws governing the practice
801 of cosmetology as held by a court of competent jurisdiction,
802 the rules of the commission shall be ineffective in that state
803 to the extent of the conflict.

804 (c) The commission shall exercise its rulemaking powers
805 pursuant to the criteria set forth in this section and the
806 rules adopted thereunder. Rules shall become binding as of the
807 date specified by the commission for each rule.

808 (d) If a majority of the legislatures of the member
809 states rejects a rule or portion of a rule, by enactment of a
810 statute or resolution in the same manner used to adopt the
811 compact within four years of the date of adoption of the rule,
812 then the rule shall have no further force and effect in any



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813 member state or to any state applying to participate in the
814 compact.

815 (e) Rules shall be adopted at a regular or special
816 meeting of the commission.

817 (f) Prior to adoption of a proposed rule, the
818 commission shall hold a public hearing and allow individuals
819 to provide oral and written comments, data, facts, opinions,
820 and arguments.

821 (g) Prior to adoption of a proposed rule by the
822 commission, and at least 30 days in advance of the meeting at
823 which the commission shall hold a public hearing on the
824 proposed rule, the commission shall provide a notice of
825 proposed rulemaking to all of the following:

826 (1) On the website of the commission or other publicly
827 accessible platform.

828 (2) To individuals who have requested notice of the
829 commission's notices of proposed rulemaking.

830 (3) In other ways as the commission may by rule
831 specify.

832 (h) The notice of proposed rulemaking shall include all
833 of the following:

834 (1) The time, date, and location of the public hearing
835 at which the commission will hear public comments on the
836 proposed rule and, if different, the time, date, and location
837 of the meeting where the commission will consider and vote on
838 the proposed rule.

839 (2) If the hearing is held via telecommunication, video
840 conference, or other electronic means, the commission shall



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841 include the mechanism for access to the hearing in the notice
842 of proposed rulemaking.

843 (3) The text of the proposed rule and the reason
844 therefor.

845 (4) A request for comments on the proposed rule from
846 any interested individual.

847 (5) The manner in which interested individuals may
848 submit written comments.

849 (i) All hearings shall be recorded. A copy of the
850 recording and all written comments and documents received by
851 the commission in response to the proposed rule shall be
852 available to the public.

853 (j) Nothing in this section shall be construed as
854 requiring a separate hearing on each rule. Rules may be
855 grouped for the convenience of the commission at hearings
856 required by this section.

857 (k) The commission, by majority vote of all members,
858 shall take final action on the proposed rule based on the
859 rulemaking record and the full text of the rule.

860 (1) The commission may adopt changes to the proposed
861 rule provided the changes do not enlarge the original purpose
862 of the proposed rule.

863 (2) The commission shall provide an explanation of the
864 reasons for substantive changes made to the proposed rule as
865 well as reasons for substantive changes not made that were
866 recommended by commenters.

867 (3) The commission shall determine a reasonable
868 effective date for the rule. Except for an emergency as



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869 provided in subsection (1), the effective date of the rule
870 shall be no sooner than 45 days after the commission issuing
871 the notice that it adopted or amended the rule.

872 (1) Upon determination that an emergency exists, the
873 commission may consider and adopt an emergency rule with five
874 days' notice, with opportunity to comment, provided that the
875 usual rulemaking procedures provided in this compact and in
876 this section shall be retroactively applied to the rule as
877 soon as reasonably possible, in no event later than 90 days
878 after the effective date of the rule. For the purposes of this
879 subsection, an emergency rule is one that shall be adopted
880 immediately to do any of the following:

881 (1) Meet an imminent threat to public health, safety,
882 or welfare.

883 (2) Prevent a loss of commission or member state funds.

884 (3) Meet a deadline for the adoption of a rule that is
885 established by federal law or rule.

886 (4) Protect public health and safety.

887 (m) The commission or an authorized committee of the
888 commission may direct revisions to a previously adopted rule
889 for purposes of correcting typographical errors, errors in
890 format, errors in consistency, or grammatical errors. Public
891 notice of any revisions shall be posted on the website of the
892 commission. The revision shall be subject to challenge by any
893 individual for a period of 30 days after posting. The revision
894 may be challenged only on grounds that the revision results in
895 a material change to a rule. A challenge shall be made in
896 writing and delivered to the commission prior to the end of



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897 the notice period. If no challenge is made, the revision shall
898 take effect without further action. If the revision is
899 challenged, the revision may not take effect without the
900 approval of the commission.

901 (n) No member state's rulemaking requirements shall
902 apply under this compact.

903 Section 12. Oversight, dispute resolution, and
904 enforcement.

905 (a) Oversight.

906 (1) The executive and judicial branches of state
907 government in each member state shall enforce this compact and
908 take all actions necessary and appropriate to implement this
909 compact.

910 (2) Venue is proper and judicial proceedings by or
911 against the commission shall be brought solely and exclusively
912 in a court of competent jurisdiction where the principal
913 office of the commission is located. The commission may waive
914 venue and jurisdictional defenses to the extent it adopts or
915 consents to participate in alternative dispute resolution
916 proceedings. Nothing herein shall affect or limit the
917 selection or propriety of venue in any action against a
918 licensee for professional malpractice, misconduct or any
919 similar matter.

920 (3) The commission may receive service of process in
921 any proceeding regarding the enforcement or interpretation of
922 the compact and shall have standing to intervene in any
923 proceeding for all purposes. Failure to provide the commission
924 service of process shall render a judgment or order void as to



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925 the commission, this compact, or adopted rules.

926 (b) Default, technical assistance, and termination.

927 (1) If the commission determines that a member state
928 has defaulted in the performance of its obligations or
929 responsibilities under this compact or the adopted rules, the
930 commission shall provide written notice to the defaulting
931 state. The notice of default shall describe the default, the
932 proposed means of curing the default, and any other action
933 that the commission may take, and shall offer training and
934 specific technical assistance regarding the default.

935 (2) The commission shall provide a copy of the notice
936 of default to the other member states.

937 (3) If a state in default fails to cure the default,
938 the defaulting state may be terminated from the compact upon
939 an affirmative vote of a majority of the delegates of the
940 member states, and all rights, privileges and benefits
941 conferred on that state by this compact may be terminated on
942 the effective date of termination. A cure of the default does
943 not relieve the offending state of obligations or liabilities
944 incurred during the period of default.

945 (4) Termination of membership in the compact shall be
946 imposed only after all other means of securing compliance have
947 been exhausted. Notice of intent to suspend or terminate shall
948 be given by the commission to the governor, the majority and
949 minority leaders of the defaulting state's legislature, the
950 defaulting state's state licensing authority and each of the
951 member states' state licensing authority.

952 (5) A state that has been terminated is responsible for



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953 all assessments, obligations, and liabilities incurred through
954 the effective date of termination, including obligations that
955 extend beyond the effective date of termination.

956 (6) Upon the termination of a state's membership from
957 this compact, that state shall immediately provide notice to
958 all licensees who hold a multistate license within that state
959 of the termination. The terminated state shall continue to
960 recognize all licenses granted pursuant to this compact for a
961 minimum of 180 days after the date of the notice of
962 termination.

963 (7) The commission shall not bear any costs related to
964 a state that is found to be in default or that has been
965 terminated from the compact, unless agreed upon in writing
966 between the commission and the defaulting state.

967 (8) The defaulting state may appeal the action of the
968 commission by petitioning the United States District Court for
969 the District of Columbia or the federal district where the
970 commission has its principal offices. The prevailing party
971 shall be awarded all costs of the litigation, including
972 reasonable attorney's fees.

973 (c) Dispute resolution.

974 (1) Upon request by a member state, the commission
975 shall attempt to resolve disputes related to the compact that
976 arise among member states and between member and non-member
977 states.

978 (2) The commission shall adopt a rule providing for
979 both mediation and binding dispute resolution for disputes as
980 appropriate.



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981 (d) Enforcement.

982 (1) The commission, in the reasonable exercise of its
983 discretion, shall enforce this compact and the commission's
984 rules.

985 (2) By majority vote as provided by commission rule,
986 the commission may initiate legal action against a member
987 state in default in the United States District Court for the
988 District of Columbia or the federal district where the
989 commission has its principal office to enforce compliance with
990 this compact and its adopted rules. The relief sought may
991 include both injunctive relief and damages. In the event
992 judicial enforcement is necessary, the prevailing party shall
993 be awarded all costs of the litigation, including reasonable
994 attorney's fees. The remedies herein shall not be the
995 exclusive remedies of the commission. The commission may
996 pursue any other remedies available under federal or the
997 defaulting member state's law.

998 (3) A member state may initiate legal action against
999 the commission in the United States District Court for the
1000 District of Columbia or the federal district where the
1001 commission has its principal office to enforce compliance with
1002 this compact and its adopted rules. The relief sought may
1003 include both injunctive relief and damages. In the event
1004 judicial enforcement is necessary, the prevailing party shall
1005 be awarded all costs of the litigation, including reasonable
1006 attorney's fees.

1007 (4) No individual or entity other than a member state
1008 may enforce this compact against the commission.



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1009 Section 13. Effective date, withdrawal, and amendment.

1010 (a) The compact shall come into effect on the date on
1011 which the compact statute is enacted into law in the seventh
1012 member state.

1013 (1) On or after the effective date of the compact, the
1014 commission shall convene and review the enactment of each of
1015 the charter member states to determine if the statute enacted
1016 by each charter member state is materially different than the
1017 model compact statute.

1018 a. A charter member state whose enactment is found to
1019 be materially different from the model compact statute shall
1020 be entitled to the default process set forth in Section 12.

1021 b. If any member state is later found to be in default,
1022 or is terminated or withdraws from the compact, the commission
1023 shall remain in existence and the compact shall remain in
1024 effect even if the number of member states should be less than
1025 seven.

1026 (2) Member states enacting the compact subsequent to
1027 the charter member states shall be subject to the process set
1028 forth in subdivision (c)(24) of Section 9 to determine if
1029 their enactments are materially different from the model
1030 compact statute and whether they qualify for participation in
1031 the compact.

1032 (3) All actions taken for the benefit of the commission
1033 or in furtherance of the purposes of the administration of the
1034 compact prior to the effective date of the compact or the
1035 commission coming into existence shall be considered to be
1036 actions of the commission unless specifically repudiated by

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1037 the commission.

1038 (4) Any state that joins the compact shall be subject
1039 to the commission's rules and bylaws as they exist on the date
1040 on which the compact becomes law in that state. Any rule that
1041 has been previously adopted by the commission shall have the
1042 full force and effect of law on the day the compact becomes
1043 law in that state.

1044 (b) Any member state may withdraw from this compact by
1045 enacting a statute repealing that state's enactment of the
1046 compact.

1047 (1) A member state's withdrawal shall not take effect
1048 until 180 days after enactment of the repealing statute.

1049 (2) Withdrawal shall not affect the continuing
1050 requirement of the withdrawing state's state licensing
1051 authority to comply with the investigative and adverse action
1052 reporting requirements of this compact prior to the effective
1053 date of withdrawal.

1054 (3) Upon the enactment of a statute withdrawing from
1055 this compact, a state shall immediately provide notice of the
1056 withdrawal to all licensees within that state. Notwithstanding
1057 any subsequent statutory enactment to the contrary, the
1058 withdrawing state shall continue to recognize all licenses
1059 granted pursuant to this compact for a minimum of 180 days
1060 after the date of notice of withdrawal.

1061 (c) Nothing contained in this compact shall be
1062 construed to invalidate or prevent any licensure agreement or
1063 other cooperative arrangement between a member state and a
1064 non-member state that does not conflict with this compact.



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1065 (d) This compact may be amended by the member states.
1066 No amendment to this compact shall become effective and
1067 binding upon any member state until it is enacted into the
1068 laws of all member states.

1069 Section 14. Construction and severability.

1070 (a) This compact and the commission's rulemaking
1071 authority shall be liberally construed so as to effectuate the
1072 purposes, and the implementation and administration of the
1073 compact. Provisions of the compact expressly authorizing or
1074 requiring the adoption of rules shall not be construed to
1075 limit the commission's rulemaking authority solely for those
1076 purposes.

1077 (b) The provisions of this compact shall be severable
1078 and if any phrase, clause, sentence, or provision of this
1079 compact is held by a court of competent jurisdiction to be
1080 contrary to the constitution of any member state, a state
1081 seeking participation in the compact, or of the United States,
1082 or the applicability thereof to any government, agency,
1083 individual, or circumstance is held to be unconstitutional by
1084 a court of competent jurisdiction, the validity of the
1085 remainder of this compact and the applicability thereof to any
1086 other government, agency, individual, or circumstance shall
1087 not be affected thereby.

1088 (c) Notwithstanding subsection (b), the commission may
1089 deny a state's participation in the compact or, in accordance
1090 with the requirements of Section 12, terminate a member
1091 state's participation in the compact, if it determines that a
1092 constitutional requirement of a member state is a material



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1093 departure from the compact. Otherwise, if this compact shall
1094 be held to be contrary to the constitution of any member
1095 state, the compact shall remain in full force and effect as to
1096 the remaining member states and in full force and effect as to
1097 the member state affected as to all severable matters.

1098 Section 15. Consistent effect and conflict with other
1099 state laws.

1100 (a) Nothing herein shall prevent or inhibit the
1101 enforcement of any other law of a member state that is not
1102 inconsistent with this compact.

1103 (b) Any laws, statutes, regulations, or other legal
1104 requirements in a member state in conflict with this compact
1105 are superseded to the extent of the conflict.

1106 (c) All permissible agreements between the commission
1107 and the member states are binding in accordance with their
1108 terms.

1109 Section 16. This act shall become effective on the
1110 first day of the third month following its passage and
1111 approval by the Governor, or its otherwise becoming law.