

SB163 INTRODUCED



1 SB163
2 W1BLM55-1
3 By Senators Hatcher, Jones
4 RFD: Veterans, Military Affairs and Public Safety
5 First Read: 14-Jan-26



SYNOPSIS:

This bill would adopt the Esthetics Licensure Compact.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Board of Cosmetology and Barbering; to add Article 3 to Chapter 7B of Title 34, Code of Alabama 1975, to adopt the Esthetics Licensure Compact.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Article 3, commencing with Section 34-7B-80, is added to Chapter 7B of Title 34 of the Code of Alabama 1975, to read as follows:

Article 3. Esthetics Licensure Compact.

§34-7B-80 Purpose.

(a) The purpose of this compact is to facilitate the interstate practice and regulation of esthetics with the goal of improving public access to, and the safety of, esthetics services and reducing barriers related to esthetician licensure. Through this compact, the member states seek to establish a regulatory framework that provides for a new multistate licensing program. Through this new licensing



SB163 INTRODUCED

program, the member states seek to provide increased value and mobility to licensed estheticians in the member states, while ensuring the provision of safe, effective, and reliable services to the public.

(b) This compact is designed to achieve the following objectives, and the member states hereby ratify the same intentions by subscribing hereto:

(1) Provide opportunities for interstate practice by estheticians who meet uniform requirements for multistate licensure;

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

(3) Ensure and encourage cooperation between member states in the licensure and regulation of the practice of esthetics;

(4) Support relocating military members and their spouses;

(5) Facilitate the exchange of information between member states related to the licensure, investigation, and discipline of the practice of esthetics; and

(6) Provide for the licensure and mobility of the workforce in the profession.

§34-7B-81 Definitions.

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

(1) ACTIVE DUTY. Any individual in full-time duty status in the active uniformed service of the United States,



SB163 INTRODUCED

including members of the National Guard and Reserve.

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

(3) AUTHORIZATION TO PRACTICE. A legal authorization associated with a multistate license permitting the practice of esthetics in that remote state, which shall be subject to the enforcement jurisdiction of the licensing authority in that remote state.

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

(5) BACKGROUND CHECK. The submission of information for an applicant for the purpose of obtaining that applicant's criminal history record information, as further defined in 28 C.F.R. § 20.3(d), from the Federal Bureau of Investigation and the agency responsible for retaining state criminal or disciplinary history in the applicant's home state.

(6) CHARTER MEMBER STATE. Member states who have enacted legislation to adopt this compact where such legislation predates the effective date of this compact as



SB163 INTRODUCED

defined in Section 34-7B-92.

(7) COMMISSION. The joint government agency whose membership consists of all states that have enacted this compact, which is known as the Esthetics Licensure Compact Commission, as defined in Section 34-7B-88, and which shall operate as an instrumentality of the member states.

(8) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.
Either of the following:

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

b. Investigative information that indicates that a licensee has engaged in fraud or represents an immediate threat to public health and safety, regardless of whether the licensee has been notified and had an opportunity to respond.

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

(10) DISQUALIFYING EVENT. Any event that shall disqualify an individual from holding a multistate license under this compact and which the commission, by rule or order, may specify.

(11) ENCUMBERED LICENSE. A license in which an adverse action restricts the practice of esthetics by a licensee, or where the adverse action has been reported to the commission.



SB163 INTRODUCED

(12) ENCUMBRANCE. A revocation or suspension of, or any limitation on, the full and unrestricted practice of esthetics by a licensing authority.

(13) ESTHETICIAN. An individual licensed in his or her home state to engage in the practice of esthetics as defined in this section.

(14) ESTHETICS. The skin care and services for cosmetic purposes provided by an esthetician in a member state as set forth in the relevant statutes and rules of a member state. The practice of esthetics occurs in the member state where the client is located at the time of service.

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

(16) HOME STATE. The member state that is a licensee's primary state of residence and where that licensee holds an active and unencumbered license to practice esthetics.

(17) INVESTIGATIVE INFORMATION. Information, records, or documents received or generated by a licensing authority pursuant to an investigation or other inquiry.

(18) JURISPRUDENCE REQUIREMENT. The assessment of an individual's knowledge of the laws and rules governing the practice of esthetics in a state.

(19) LICENSEE. An individual who currently holds a license from a member state to practice as an esthetician.

(20) LICENSING AUTHORITY. A state's administrative or regulatory body responsible for regulating the practice of esthetics, or which is responsible for issuing licenses to



SB163 INTRODUCED

estheticians or otherwise overseeing the practice of esthetics in that state.

(21) MEMBER STATE. Any state that has adopted this compact.

(22) MULTISTATE LICENSE. A license issued and subject to the enforcement jurisdiction of the licensing authority in a licensee's home state, which authorizes the practice of esthetics in member states and includes authorizations to practice esthetics in all remote states pursuant to this compact.

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

(24) RULE. A regulation adopted by the commission under this compact, or an authorized entity, that has the force of law.

(25) SINGLE-STATE LICENSE. A license issued by a member state that authorizes the practice of esthetics only within the issuing state and does not include any authorization outside of the issuing state.

(26) STATE. A state, commonwealth, territory, or possession of the United States and the District of Columbia.

§34-7B-82 Member state requirements.

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

(1) License estheticians and regulate esthetics.

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



SB163 INTRODUCED

169 state.

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

173 (4) Require that licensees satisfy educational or
174 training requirements prior to being licensed to provide
175 esthetics 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: (i) criminal history; (ii) disciplinary history; or
179 (iii) background check. Such procedures may include the
180 submission of information by applicants for the purpose of
181 obtaining an applicant's background check as defined herein.

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 such rules as may be enacted by the
193 commission to 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



SB163 INTRODUCED

multistate license to practice esthetics.

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

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

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

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

§34-7B-83 Multistate license.

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

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



SB163 INTRODUCED

under this compact.

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

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

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

(f) To maintain a multistate license under this compact, a licensee must:

(1) Agree to abide by the rules of the licensing authority, and the state scope of practice laws governing the practice of esthetics, of any member state in which the licensee provides services;

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

(3) Comply with any and all other requirements regarding multistate licenses which the commission, by rule, may provide.



SB163 INTRODUCED

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

(h) The practice of esthetics under a multistate license granted pursuant to this compact will subject the licensee to the jurisdiction of the licensing authority, the courts, and the laws of the member state in which the esthetics services are provided.

§34-7B-84 Reissuance of a multistate license by a new home state.

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

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

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

(2) Upon receipt of an application to reissue a multistate license, the new home state shall verify that the multistate license is active, unencumbered, and eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the prior home state will be deactivated and all member states notified in accordance with the applicable rules adopted by the commission;



SB163 INTRODUCED

(3) If required for initial licensure, the new home state may require a background check as specified in the laws of the new home state or compliance with any jurisprudence requirements of the new home state; and

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

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

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

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

§34-7B-85 Authority of the compact commission and member state licensing authorities.

(a) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce



SB163 INTRODUCED

laws or other rules related to the practice of esthetics in that state, where those laws or other rules are not inconsistent with the provisions of this compact.

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

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

§34-7B-86 Adverse actions.

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

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

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

(1) Take adverse action against a licensee's



SB163 INTRODUCED

authorization to practice esthetics through the multistate license in that member state, provided that:

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

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

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

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

(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to



SB163 INTRODUCED

subpoenas issued in proceedings before it. The issuing licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located;

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

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

(d) A licensee's home state shall complete any pending investigation of an esthetician who changes his or her primary state of residence while the investigation is pending. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of any investigation to the data system.

(e) If an adverse action is taken by the home state against a licensee's multistate license, the licensee's authorization to practice in all other member states shall be deactivated until all encumbrances have been removed from the home state license. All home state disciplinary orders that impose an adverse action against a licensee's multistate license shall include a statement that the esthetician's authorization to practice is deactivated in all member states during the pendency of the order.

(f) Nothing in this compact shall override a member



SB163 INTRODUCED

state's authority to accept a licensee's participation in an alternative program in lieu of adverse action. A licensee's multistate license shall be suspended for the duration of the licensee's participation in any alternative program.

(g) Joint investigations.

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

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

§34-7B-87 Active duty military and their spouses.

An active duty military service member or his or her spouse shall designate a home state where the individual has a current license in good standing. The individual or spouse may retain his or her home state designation during any period of service when that individual is on active duty.

§34-7B-88 Establishment and operation of the Esthetics Licensure Compact Commission.

(a) The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the Esthetics Licensure Compact Commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in Section 34-7B-92.



SB163 INTRODUCED

421 (b) Membership, voting, and meetings.

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

424 (2) The delegate shall be an administrator of the
425 licensing authority of the member state or their designee.

426 (3) The commission, by rule or bylaw, shall establish a
427 term of office for delegates and, by rule or bylaw, may
428 establish term limits.

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

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

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

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

440 (c) The commission shall have the following powers:

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

442 (2) Establish code of conduct and conflict of interest
443 policies.

444 (3) Adopt rules and bylaws.

445 (4) Maintain its financial records in accordance with
446 the bylaws.

447 (5) Meet and take such actions as are consistent with
448 the provisions of this compact, the commission's rules, and



SB163 INTRODUCED

449 the bylaws.

450 (6) Initiate and conclude legal proceedings or actions
451 in the name of the commission, provided that the standing of
452 any licensing authority to sue or be sued under applicable law
453 shall not be affected.

454 (7) Maintain and certify records and information
455 provided to a member state as the authenticated business
456 records of the commission and designate an agent to do so on
457 the commission's behalf.

458 (8) Purchase and maintain insurance and bonds.

459 (9) Borrow, accept, or contract for services of
460 personnel including, but not limited to, employees of a member
461 state.

462 (10) Conduct an annual financial review.

463 (11) Hire employees, elect or appoint officers, fix
464 compensation, define duties, grant such individuals
465 appropriate authority to carry out the purposes of the
466 compact, and establish the commission's personnel policies and
467 programs relating to conflicts of interest, qualifications of
468 personnel, and other related personnel matters.

469 (12) As set forth in the commission rules, charge a fee
470 to a licensee for the grant of a multistate license and
471 thereafter, as may be established by commission rule, charge
472 the licensee a multistate license renewal fee for each renewal
473 period. Nothing herein shall be construed to prevent a home
474 state from charging a licensee a fee for a multistate license
475 or renewals of a multistate license or a fee for the
476 jurisprudence requirement if the member state imposes such a



SB163 INTRODUCED

requirement for the grant of multistate license.

(13) Assess and collect fees.

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

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

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

(17) Establish a budget and make expenditures.

(18) Borrow money.

(19) Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives and such other interested persons as may be designated in this compact and the bylaws.

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

(21) Elect a chair, vice chair, secretary, and treasurer and such other officers of the commission as provided in the commission's bylaws.

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



SB163 INTRODUCED

(23) Adopt and provide to the participating states an annual report.

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

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

(d) The executive committee.

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

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

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

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

d. Preparing and recommending the budget;

e. Maintaining financial records on behalf of the commission;

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

g. Establishing additional committees as necessary;



SB163 INTRODUCED

h. Exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

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

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

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

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

c. The commission may elect ex officio, nonvoting members from a recognized national organization as approved by the commission. The commission's bylaws shall identify qualifying organizations and the manner of appointment if the number of organizations seeking to appoint an ex officio member exceeds the number of members specified in this section.

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

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

a. Annual executive committee meetings, as well as any executive committee meeting during which the executive



SB163 INTRODUCED

committee does not take or intend to take formal action on a matter for which a commission vote would otherwise be required, shall be open to the public, except that the executive committee may meet in a closed, nonpublic session of a public meeting when dealing with any of the matters covered under subdivision (f)(4).

b. The executive committee shall give five business days advance notice of its public meetings, posted on its website, and any other means as provided in the commission's rules, to provide notice to persons with an interest in the public matters the executive committee intends to address at those meetings.

(5) The executive committee may hold an emergency meeting when acting for the commission to:

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

b. Prevent a loss of commission or participating state funds; or

c. Protect public health and safety.

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

(f) Meetings of the commission.

(1) All meetings of the commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(2) Notwithstanding subdivision (1), the commission may convene an emergency public meeting by providing at least



SB163 INTRODUCED

24-hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons the commission may dispense with notice of proposed rulemaking under Section 34-7B-90(1). The commission's legal counsel shall certify one of the reasons justifying an emergency public meeting has been met.

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

(4) The commission may convene in a closed, nonpublic meeting for the commission to discuss the following:

a. Noncompliance of a member state with its obligations under the compact.

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

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

d. Current, threatened, or reasonably anticipated litigation.

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.

f. Accusing any person of a crime or formally censuring any person.

g. Trade secrets or commercial or financial information



SB163 INTRODUCED

that is privileged or confidential.

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

i. Investigative records compiled for law enforcement purposes.

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

k. Legal advice.

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

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

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

(6) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(g) Financing of the commission.



SB163 INTRODUCED

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

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

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

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

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual



SB163 INTRODUCED

673 report of the commission.

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

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

691 (2) The commission shall defend any member, officer,
692 executive director, employee, and representative of the
693 commission in any civil action seeking to impose liability
694 arising out of any actual or alleged act, error, or omission
695 that occurred within the scope of commission employment,
696 duties, or responsibilities, or as determined by the
697 commission that the person against whom the claim is made had
698 a reasonable basis for believing occurred within the scope of
699 commission employment, duties, or responsibilities, provided
700 that nothing herein shall be construed to prohibit that person



SB163 INTRODUCED

701 from retaining their own counsel at their own expense; and
702 provided further, that the actual or alleged act, error, or
703 omission did not result from that person's intentional or
704 willful or wanton misconduct.

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

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

721 (5) Nothing in this compact shall be interpreted to
722 waive or otherwise abrogate a member state's state action
723 immunity or state action affirmative defense with respect to
724 antitrust claims under the Sherman Act, Clayton Act, or any
725 other state or federal antitrust or anticompetitive law or
726 regulation.

727 (6) Nothing in this compact shall be construed to be a
728 waiver of sovereign immunity by the member states or by the



SB163 INTRODUCED

729 commission.

730 §34-7B-89 Data system.

731 (a) The commission shall provide for the development,
732 maintenance, operation, and utilization of a coordinated
733 database and reporting system.

734 (b) The commission shall assign each applicant for a
735 multistate license a unique identifier, as determined by the
736 rules of the commission.

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

742 (1) Identifying information;

743 (2) Licensure data;

744 (3) Adverse actions against a license and information
745 related thereto;

746 (4) Nonconfidential information related to alternative
747 program participation, the beginning and ending dates of such
748 participation, and other information related to such
749 participation;

750 (5) Any denial of application for licensure, and the
751 reason for such denial, excluding the reporting of any
752 criminal history record information where prohibited by law;

753 (6) The existence of investigative information;

754 (7) The existence of current significant investigative
755 information; and

756 (8) Other information that may facilitate the



SB163 INTRODUCED

administration of this compact or the protection of the public, as determined by the rules of the commission.

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

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

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

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

(h) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

§34-7B-90 Rulemaking.



SB163 INTRODUCED

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

(b) The rules of the commission shall have the force of law in each member state, provided that where the rules of the commission conflict with the laws of the member state that establish the member state's scope of practice laws governing the practice of esthetics as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

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

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

(e) Rules shall be adopted at a regular or special



SB163 INTRODUCED

813 meeting of the commission.

814 (f) Prior to adoption of a proposed rule, the
815 commission shall hold a public hearing and allow persons to
816 provide oral and written comments, data, facts, opinions, and
817 arguments.

818 (g) Prior to adoption of a proposed rule by the
819 commission, and at least 30 days in advance of the meeting at
820 which the commission will hold a public hearing on the
821 proposed rule, the commission shall provide a notice of
822 proposed rulemaking:

823 (1) On the website of the commission or other publicly
824 accessible platform;

825 (2) To persons who have requested notice of the
826 commission's notices of proposed rulemaking; and

827 (3) In such other ways as the commission, by rule, may
828 specify.

829 (h) The notice of proposed rulemaking shall include:

830 (1) The time, date, and location of the public hearing
831 at which the commission will hear public comments on the
832 proposed rule and, if different, the time, date, and location
833 of the meeting where the commission will consider and vote on
834 the proposed rule;

835 (2) If the hearing is held via telecommunication, video
836 conference, or other electronic means, the commission shall
837 include the mechanism for access to the hearing in the notice
838 of proposed rulemaking;

839 (3) The text of the proposed rule and the reason
840 therefor;



SB163 INTRODUCED

(4) A request for comments on the proposed rule from any interested person; and

(5) The manner in which interested persons may submit written comments.

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

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

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

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

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

(3) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (1), the effective date of the rule shall be no sooner than 45 days after the commission adopted or amended the rule.

(1) Upon determination that an emergency exists, the



SB163 INTRODUCED

commission may consider and adopt an emergency rule with five days' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately to:

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

b. Prevent the loss of commission or member state funds;

c. Meet a deadline for the adoption of a rule that is established by federal law or rule; or

d. Protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the



SB163 INTRODUCED

897 approval of the commission.

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

900 §34-7B-91 Oversight, dispute resolution, and
901 enforcement.

902 (a) Oversight.

903 (1) The executive and judicial branches of state
904 government in each member state shall enforce this compact and
905 take all actions necessary and appropriate to implement the
906 compact.

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

917 (3) The commission shall be entitled to receive service
918 of process in any proceeding regarding the enforcement or
919 interpretation of the compact and shall have standing to
920 intervene in such a proceeding for all purposes. Failure to
921 provide the commission service of process shall render a
922 judgment or order void as to the commission, this compact, or
923 adopted rules.

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



SB163 INTRODUCED

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

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

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

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

(e) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that



SB163 INTRODUCED

extend beyond the effective date of termination.

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

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

(h) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(i) Dispute resolution.

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

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

(j) Enforcement.

(1) The commission, in the reasonable exercise of its



SB163 INTRODUCED

discretion, shall enforce the provisions of this compact and the commission's rules.

(2) By majority vote as provided by commission rule, the commission may initiate legal action against a member state in default in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its adopted rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's laws.

(3) A member state may initiate legal action against the commission in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its adopted rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

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

§34-7B-92 Effective date, withdrawal, and amendment.

(a) The compact shall come into effect on the date on



SB163 INTRODUCED

1009 which the compact statute is enacted into law in the seventh
1010 member state.

1011 (1) On or after the effective date of the compact, the
1012 commission shall convene and review the enactment of each of
1013 the charter member states to determine if the statute enacted
1014 by each such charter member state is materially different than
1015 the model compact statute.

1016 a. A charter member state whose enactment is found to
1017 be materially different from the model compact statute shall
1018 be entitled to the default process set forth in Section
1019 34-7B-91.

1020 b. If any member state is later found to be in default,
1021 or is terminated or withdraws from the compact, the commission
1022 shall remain in existence, and the compact shall remain in
1023 effect even if the number of member states should be less than
1024 seven.

1025 (2) Member states enacting the compact after the
1026 charter member states shall be subject to the process set
1027 forth in Section 34-7B-88(c)(24) to determine if their
1028 enactments are materially different from the model compact
1029 statute and whether they qualify for participation in the
1030 compact.

1031 (3) All actions taken for the benefit of the commission
1032 or in furtherance of the purposes of the administration of the
1033 compact prior to the effective date of the compact or the
1034 commission coming into existence shall be considered actions
1035 of the commission unless specifically repudiated by the
1036 commission.



SB163 INTRODUCED

1037 (4) Any state that joins the compact shall be subject
1038 to the commission's rules and bylaws as they exist on the date
1039 on which the compact becomes law in that state. Any rule that
1040 has been previously adopted by the commission shall have the
1041 full force and effect of law on the day the compact becomes
1042 law in that state.

1043 (b) Any member state may withdraw from this compact by
1044 enacting a statute repealing that state's enactment of the
1045 compact.

1046 (1) A member state's withdrawal shall not take effect
1047 until 180 days after the enactment of the repealing statute.

1048 (2) Withdrawal shall not affect the continuing
1049 requirement of the withdrawing state's licensing authority to
1050 comply with the investigative and adverse action reporting
1051 requirements of this compact prior to the effective date of
1052 withdrawal.

1053 (3) Upon the enactment of a statute withdrawing from
1054 this compact, a state shall immediately provide notice of the
1055 withdrawal to all licensees within that state. Notwithstanding
1056 any subsequent statutory enactment to the contrary, the
1057 withdrawing state shall continue to recognize all licenses
1058 granted pursuant to this compact for a minimum of 180 days
1059 after the date of such notice of withdrawal.

1060 (c) Nothing contained in this compact shall be
1061 construed to invalidate or prevent any licensure agreement or
1062 other cooperative arrangement between a member state and a
1063 non-member state that does not conflict with the provisions of
1064 this compact.



SB163 INTRODUCED

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 §34-7B-93 Construction and severability.

1070 (a) This compact and the commission's rulemaking
1071 authority shall be liberally construed 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 person, or circumstance is held to be unconstitutional by a
1084 court of competent jurisdiction, the validity of the remainder
1085 of this compact, and the applicability thereof to any other
1086 government, agency, person, or circumstance shall not be
1087 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 34-7B-91, 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



SB163 INTRODUCED

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

§34-7B-94 Consistent effect and conflict with other state laws.

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

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

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

(d) The purpose of this compact is to facilitate multistate licensure for estheticians. Nothing herein shall subject a member state to any laws, rules, or policies from any other member state beyond the intended purpose of this compact.

(e) Nothing herein shall require any member state to adopt additional laws, rules, or policies beyond the intended purpose of this compact.

Section 2. This act shall become effective on October 1, 2026.