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HOUSE BILL 98

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO LICENSURE; PROHIBITING REQUIRING RESUBMISSION OF
FINGERPRINTS TO RENEW A BUSINESS, PROFESSIONAL OR OCCUPATIONAL
LICENSE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 9-16-6 NMSA 1978 (being Laws 1983,
Chapter 297, Section 22) is amended to read:

"9-16-6. SUPERINTENDENT--DUTIES AND GENERAL POWERS.--

A. The superintendent is responsible to the
governor for the operation of the department. It is [~~his~~] the
superintendent's duty to manage all operations of the
department and to administer and enforce the laws with which
[~~he~~] the superintendent or the department is charged.

B. To perform [~~his~~] the superintendent's duties,
the superintendent has every power expressly enumerated in the

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1 laws, whether granted to the superintendent or the department
2 or any division of the department, except where authority
3 conferred upon any division is explicitly exempted from the
4 superintendent's authority by statute. In accordance with
5 these provisions, the superintendent shall:

6 (1) except as otherwise provided in the
7 Regulation and Licensing Department Act, exercise general
8 supervisory and appointing authority over all department
9 employees, subject to any applicable personnel laws and
10 regulations;

11 (2) delegate authority to subordinates as ~~[he]~~
12 the superintendent deems necessary and appropriate, clearly
13 delineating such delegated authority and the limitations
14 thereto;

15 (3) organize the department into those
16 organizational units ~~[he]~~ the superintendent deems will enable
17 it to function most efficiently, subject to any provisions of
18 law requiring or establishing specific organizational units;

19 (4) within the limitations of available
20 appropriations and applicable laws, employ and fix the
21 compensation of those persons necessary to discharge ~~[his]~~ the
22 superintendent's duties;

23 (5) take administrative action by issuing
24 orders and instructions, not inconsistent with the law, to
25 assure implementation of and compliance with the provisions of

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1 law for whose administration or execution [~~he~~] the
2 superintendent is responsible and to enforce those orders and
3 instructions by appropriate administrative action or actions in
4 the courts;

5 (6) conduct research and studies that will
6 improve the operations of the department and the provision of
7 services to the [~~citizens~~] residents of the state;

8 (7) provide courses of instruction and
9 practical training for employees of the department and other
10 persons involved in the administration of programs, with the
11 objective of improving the operations and efficiency of
12 administration;

13 (8) prepare an annual budget of the
14 department;

15 (9) provide cooperation, at the request of
16 heads of administratively attached agencies, in order to:

17 (a) minimize or eliminate duplication of
18 services and jurisdictional conflicts;

19 (b) coordinate activities and resolve
20 problems of mutual concern; and

21 (c) resolve by agreement the manner and
22 extent to which the department shall provide budgeting,
23 [~~record-keeping~~] recordkeeping and related clerical assistance
24 to administratively attached agencies;

25 (10) appoint, with the governor's consent, a

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1 "director" for each division. These appointed positions are
2 exempt from the provisions of the Personnel Act. Persons
3 appointed to these positions shall serve at the pleasure of the
4 superintendent;

5 (11) give bond in the penal sum of twenty-five
6 thousand dollars (\$25,000) and require directors to each give
7 bond in the penal sum of ten thousand dollars (\$10,000)
8 conditioned upon the faithful performance of duties, as
9 provided in the Surety Bond Act. The department shall pay the
10 costs of these bonds; and

11 (12) require performance bonds of such
12 department employees and officers as ~~[he]~~ the superintendent
13 deems necessary, as provided in the Surety Bond Act. The
14 department shall pay the costs of these bonds.

15 C. The superintendent may apply for and receive,
16 with the governor's approval, in the name of the department any
17 public or private funds, including ~~[but not limited to]~~ United
18 States government funds, available to the department to carry
19 out its programs, duties or services.

20 D. The superintendent may make and adopt such
21 reasonable and procedural rules and regulations as may be
22 necessary to carry out the duties of the department and its
23 divisions; provided that where a licensing entity requires
24 submission of fingerprints as part of the initial license
25 application, and a licensee has provided fingerprints and the

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1 license has been issued, the licensing entity shall not require
2 a licensee to submit fingerprints again to renew the license,
3 but a licensee shall submit to a background investigation if
4 required. No rule or regulation promulgated by the director of
5 any division in carrying out the functions and duties of the
6 division shall be effective until approved by the
7 superintendent, unless otherwise provided by statute. Unless
8 otherwise provided by statute, no regulation affecting any
9 person or agency outside the department shall be adopted,
10 amended or repealed without a public hearing on the proposed
11 action before the superintendent or a hearing officer
12 designated by ~~[him]~~ the superintendent. The public hearing
13 shall be held in Santa Fe unless otherwise permitted by
14 statute. Notice of the subject matter of the regulation, the
15 action proposed to be taken, the time and place of the hearing,
16 the manner in which interested persons may present their views
17 and the method by which copies of the proposed regulation,
18 proposed amendment or repeal of an existing regulation may be
19 obtained shall be published once at least thirty days prior to
20 the hearing date in a newspaper of general circulation and
21 mailed at least thirty days prior to the hearing date to all
22 persons who have made a written request for advance notice of
23 hearing. All rules and regulations shall be filed in
24 accordance with the State Rules Act."

25 SECTION 2. Section 60-1A-7 NMSA 1978 (being Laws 2007,

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1 Chapter 9, Section 7) is amended to read:

2 "60-1A-7. ALL LICENSE APPLICATIONS--BACKGROUND
3 INVESTIGATIONS--RULES.--

4 A. A person applying for a license pursuant to the
5 Horse Racing Act shall submit to a background investigation to
6 be conducted by the board. The commission and the board shall
7 adopt rules to coordinate the manner in which the background
8 investigations are conducted. The rules shall at minimum
9 require that:

10 (1) an applicant for a license [~~or license~~
11 ~~renewal~~] shall submit two fingerprint cards to the commission,
12 with one card to be submitted to the board for a statewide
13 check and the other card to be submitted to the federal bureau
14 of investigation for a nationwide check;

15 (2) arrest record information from a law
16 enforcement agency or the federal bureau of investigation and
17 information obtained as a result of the background
18 investigation conducted by the board is privileged and shall
19 not be disclosed to persons not directly involved in the
20 decision affecting the specific applicant;

21 (3) an applicant shall provide all of the
22 information required by the commission; and

23 (4) the cost of the background investigation
24 shall be paid by the applicant.

25 B. An applicant for a license who is denied the

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1 license by the commission shall have an opportunity to inspect
2 and challenge the validity of the record on which the denial of
3 the license was based."

4 SECTION 3. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2019.

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