

BILL ANALYSIS

Senate Research Center
88R16274 TYPED

S.B. 1615
By: Zaffirini
Business & Commerce
4/12/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are approximately 600,000 licensed cosmetologists in the United States. Despite the high demand for cosmetology services, licensees are limited to providing services within state borders. S.B. 1615 would implement in Texas the Cosmetology Licensure Compact (CLC), which is an interstate occupational licensure compact and legally binding agreement among adopting states. CLC enables cosmetologists to obtain a multistate license to practice in all states that join the compact, rather than get a license in every state in which they want to practice. Accordingly, S.B. 1615 would provide licensees with opportunities for multistate practice, support relocating military families, improve the safety of cosmetology services, and foster workforce development by reducing unnecessary licensure burdens.

As proposed, S.B. 1615 amends current law relating to the cosmetology licensure compact.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Cosmetology Licensure Compact Commission in SECTION 1 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the cosmetology licensure compact is adopted to read as follows:

COSMETOLOGY LICENSURE COMPACT

ARTICLE 1- PURPOSE

Provides that 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 to cosmetology licensure. Provides that through this compact, the member states seek to establish a regulatory framework which provides for a new multistate licensing program. Provides that through this new licensing program, the member states seek to provide increased value and mobility to licensed cosmetologists in the member states, while ensuring the provision of safe, effective, and reliable services to the public. Provides that this compact is designed to achieve the following objectives, and the member states hereby ratify the same intentions by subscribing hereto:

- A. Provide opportunities for interstate practice by cosmetologists who meet uniform requirements for multistate licensure;
- B. Enhance the abilities of member states to protect public health and safety, and prevent fraud and unlicensed activity within the profession;
- C. Ensure and encourage cooperation between member states in the licensure and regulation of the practice of cosmetology;
- D. Support relocating military members and their spouses;

- E. Facilitate the exchange of information between member states related to the licensure, investigation, and discipline of the practice of cosmetology;
- F. Provide for meaningful dispute resolution while allowing a remote state to hold a licensee accountable under the remote state's practice laws, even where that licensee holds a multistate license; and
- G. Provide for the licensure and mobility of the workforce in the profession, while addressing the shortage of workers and lessening the associated burdens on the member states.

ARTICLE 2- DEFINITIONS

Defines "active duty military," "adverse action," "authorization to practice," "alternative program," "background check," "commission," "cosmetologist," "cosmetology," "cosmetology services," "practice of cosmetology," "current significant investigative information," "data system," "disqualifying event," "encumbered license," "encumbrance," "executive committee," "home state," "investigative information," "jurisprudence requirement," "licensing authority," "licensee," "member state," "multistate license," "remote state," "rule," "single-state license," "state," and "state practice laws."

ARTICLE 3- MEMBER STATE REQUIREMENTS

A. Provides that to be eligible to join this compact, and to maintain eligibility as a member state, a state is required to:

1. license and regulate cosmetology;
2. have a mechanism or entity in place to receive and investigate complaints about licensees practicing in that state;
3. require that licensees within the state pass a competency examination prior to being licensed to provide cosmetology services to the public in that state;
4. require that licensees satisfy educational or training requirements prior to being licensed to provide cosmetology services to the public in that state;
5. implement procedures for considering one or more of the following categories of information from applicants for licensure: criminal history; disciplinary history; or background check. Authorizes such procedures to include the submission of information by applicants for the purpose of obtaining an applicant's background check as defined herein;
6. participate in the data system, including through the use of unique identifying numbers;
7. share information related to disciplinary actions with the Cosmetology Licensure Compact Commission (commission) and other member states, both through the data system and otherwise;
8. notify the commission and other member states, in compliance with the terms of the compact and rules of the commission, of any current significant investigative information in the state's possession regarding a licensee practicing in that state;
9. comply with such rules as may be enacted by the commission to administer the compact; and
10. accept licensees from other member states as established herein.

B. Authorizes member states to charge a fee for granting a license to practice cosmetology.

C. Requires individuals not residing in a member state to continue to be able to apply for a member state's single-state license as provided under the laws of each member state. Prohibits the single-state license granted to these individuals from being recognized as granting a multistate license to provide services in any other member state.

D. Requires that nothing in this compact affect the requirements established by a Member state for the issuance of a single-state license.

E. Requires a multistate license issued to a licensee by a home state to a resident of that state to be recognized by each member state as authorizing a licensee to practice cosmetology in each member state.

F. Requires that at no point the commission have the power to define the educational or professional requirements for a license to practice cosmetology. Requires that the member states retain sole jurisdiction over the provision of these requirements.

ARTICLE 4- MULTISTATE LICENSE PROGRAM

A. Requires a licensee who holds an active and unencumbered license to practice cosmetology in their home state to be entitled to apply to their home state's licensing authority for a multistate license.

B. Requires a member state's licensing authority, upon the receipt of an application for a multistate license for cosmetology, according to the rules of the commission, to ascertain whether the applicant meets the requirements for a multistate license under this compact using any and all information available to the licensing authority, including, but not limited to, information uploaded to the data system by the applicant's home state.

C. Requires the licensing authority in receipt of the application to, within a reasonable time, grant a multistate license to that applicant, and inform all member states of the grant of said multistate license if an applicant meets the requirements for a multistate license under this compact and any rules of the commission.

D. Requires a multistate license to practice cosmetology issued by a member state's licensing authority to 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. Authorizes a multistate license granted pursuant to this compact to be effective for a definite period of time, concurrent with renewal of the home state license.

F. Requires an applicant, to qualify for a multistate license under this compact, and to maintain eligibility for such a license, to:

1. hold an active, unencumbered license in the applicant's home state;
2. be assigned and maintain a unique identifying number, according to the rules of the commission;
3. agree to abide by the rules and requirements of the licensing authority, and the state practice laws, of any member state in which the applicant provides services;
4. pay all required fees related to the application and certification process, and any other fees which the commission is authorized by rule to require; and

5. comply with any and all other requirements regarding multistate licenses which the commission is authorized by rule to provide.

G. Requires that a licensee providing services in a member state comply with the state practice laws of the state in which the services are provided, and all other applicable laws of that state.

H. Provides that the practice of cosmetology 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 cosmetology services are provided.

ARTICLE 5- OBTAINING A NEW HOME STATE LICENSE UNDER THE MULTISTATE LICENSE

A. Authorizes a licensee, under the multistate licensure program in Article 4, to hold a home state license in only one member state at any given time.

B. Provides that if a licensee changes their primary state of residence by moving between two member states:

1. the licensee is required to file an application for obtaining a new home state license under the multistate licensure program pursuant to Article 4, pay all applicable fees, and notify the current and new home states in accordance with the rules of the commission.

2. upon receipt of an application for obtaining a new home state license under the multistate licensure program, the new home state is required to verify that the licensee meets the criteria outlined in Article 4 via the data system, without the need for primary source verification.

3. if required for initial licensure in that state, a member state is authorized to require an additional background check as specified in the laws of that state, or the compliance with any jurisprudence requirements of the new home state.

4. a licensee is authorized to hold a multistate license, as issued by their home state, in only one member state at a time.

5. if a licensee holding a multistate license changes their primary state of residence by moving between two member states, the licensee is required to apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with the applicable rules adopted by the commission.

6. notwithstanding any other provision of this compact, if a licensee cannot meet the criteria set out in Article 4, then the new home state is required to use the applicable requirements for a single-state license in that state.

7. a licensee is required to pay all applicable fees to the new home state in order to be issued a new home state license.

C. Provides that if a licensee changes their primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, then the state criteria is required to apply for the issuance of a single-state license in the new home state.

D. Requires that nothing this compact interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee is required to have only one home state, and only one multistate license.

E. Requires that nothing in this compact interfere with the requirements established by a member state for the issuance of a single-state license.

ARTICLE 6- AUTHORITY OF THE COMPACT COMMISSION AND MEMBER STATE LICENSING AUTHORITIES

A. Requires that nothing in this compact, nor any rule or regulation of the commission, be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of cosmetology in that state, where those laws, regulations, or other rules are not inconsistent with the provisions of this compact.

B. Requires a member state's licensing authority, insofar as practical, to cooperate with the commission and with each entity exercising independent regulatory authority over the practice of cosmetology according to the provisions of this compact.

C. Requires that licensees operating in a member state under a multistate license be subject to both the rules and requirements of the commission and those of the member state in which cosmetology services are being provided.

D. Requires an adverse action by a member state's licensing authority against a licensee to in no way limit another member state's authority to grant a single-state license to that licensee, or to regulate such single-state licenses.

E. Requires that discipline be the sole responsibility of the state in which cosmetology services are provided. Requires that each member state's licensing authority be responsible for receiving complaints about individuals practicing cosmetology 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 is authorized by rule to require.

ARTICLE 7- ADVERSE ACTIONS

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

B. Requires that each member state's licensing authority, in addition to the powers conferred by state law, have the power to:

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

a. only the licensee's home state is required to have the power to take adverse action against the license issued by the home state; and

b. for the purposes of taking adverse action, the home state's licensing authority is required to 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. Requires that the home state, in so doing, 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 their primary state of residence during the course of such an investigation. Requires that the licensing authority 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. Requires that 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 be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before it. Requires that the issuing licensing authority 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.

6. Take adverse action based on the factual findings of a remote state, provided that the licensing authority follows its own procedures for taking such adverse action.

C. Requires that a licensee's home state complete any pending investigation(s) of a cosmetologist who changes their primary state of residence during the course of the investigation(s). Requires that the home state also have the authority to take appropriate action(s) and to promptly report the conclusions of the investigations to the data system.

D. Provides that if an adverse action is taken by the home state against licensee's multistate license, the licensee's authorization to practice in all other member states be deactivated until all encumbrances have been removed from the home state license. Requires that all home state disciplinary orders that impose an adverse action against a licensee's multistate license include a statement that the cosmetologist's authorization to practice is deactivated in all member states during the pendency of the order.

E. Requires that nothing in this compact override a member state's authority to accept a licensee's participation in an alternative program in lieu of adverse action. Requires that a licensee's multistate license be suspended for the duration of the licensee's participation in any alternative program.

ARTICLE 8- ACTIVE DUTY MILITARY AND THEIR SPOUSES

Requires active duty military personnel, or their spouses, to designate a home state where the individual has a current license in good standing. Authorizes the individual to retain their home state designation during any period of service when that individual is on active duty assignment.

ARTICLE 9- ESTABLISHMENT OF THE COSMETOLOGY LICENSURE COMPACT COMMISSION

A. Provides that 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 Cosmetology Compact Commission. Provides that the commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state.

B. Membership, Voting, and Meetings

1. Requires that each member state have and be limited to one delegate selected by that member state's state licensing authority.

2. Requires that the delegate be an administrator of the licensing authority of the member state or their designee.

3. Provides that the commission is required to by rule or bylaw establish a term of office for delegates and is authorized to by rule or bylaw establish term limits.
4. Authorizes the commission to recommend removal or suspension any delegate from office.
5. Requires a member state's state licensing authority to fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy.
6. Requires that each delegate be entitled to one vote on all matters before the commission requiring a vote by commission delegates.
7. Requires that a delegate vote in person or by such other means as provided in the bylaws. Authorizes the bylaws to provide for delegates to meet by telecommunication, videoconference, or other means of communication.
8. Requires that the commission meet at least once during each calendar year. Authorizes additional meetings to be held as set forth in the bylaws. Authorizes the commission to meet by telecommunication, video conference or other similar electronic means.

C. Requires the commission to have the following powers:

1. establish the fiscal year of the commission;
2. establish code of conduct and conflict of interest policies;
3. establish and amend rules and bylaws;
4. maintain its financial records in accordance with the bylaws;
5. meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;
6. initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law is prohibited from being affected;
7. purchase and maintain insurance and bonds;
8. borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
9. conduct an annual financial review;
10. hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
11. assess and collect fees;
12. accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission is required to avoid any appearance of impropriety or conflict of interest;
13. lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

14. sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
15. establish a budget and make expenditures;
16. borrow money;
17. appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as are authorized to be designated in this compact and the bylaws;
18. provide and receive information from, and cooperate with, law enforcement agencies;
19. establish and elect an executive committee, including a chair and a vice chair;
20. 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; and
21. perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

D. The Executive Committee

1. Requires the executive committee to have the power to act on behalf of the commission according to the terms of this compact. Requires that the powers, duties, and responsibilities of the executive committee include:
 - a. oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other such duties as deemed necessary;
 - b. recommend 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. ensure compact administration services are appropriately provided, including by contract;
 - d. prepare and recommend the budget;
 - e. maintain financial records on behalf of the commission;
 - f. monitor compact compliance of member states and provide compliance reports to the commission;
 - g. establish additional committees as necessary;
 - 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. Requires that the executive committee be composed of seven members:

a. the chair and vice chair of the commission are required to be voting members of the executive committee; and

b. the commission is required to elect seven voting members from the current membership of the commission.

c. Authorizes the commission to elect ex-officio, nonvoting members from a recognized national cosmetology professional association as approved by the commission. Requires that the commission's bylaws 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. Authorizes the commission to remove any member of the executive committee as provided in the commission's bylaws.

4. Requires the executive committee to meet at least annually.

a. Requires executive committee meetings to be open to the public, except that the executive committee is authorized to meet in a closed, non-public meeting as provided in subsection E.2 below.

b. Requires the executive committee to give ten days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

c. Authorizes the executive committee to hold a special meeting in accordance with subsection E.1.b below.

E. Requires the commission to adopt and provide to the member states an annual report.

F. Meetings of the commission

1. Requires all meetings to be open to the public, except that the commission is authorized to meet in a closed, non-public meeting as provided in subsection F.2 below.

a. Requires that public notice for all meetings of the full commission of meetings be given in the same manner as required under the rulemaking provisions in Section 11, except that the commission is authorized to hold a special meeting as provided in subsection F.1.b below.

b. Authorizes the commission to hold a special meeting when it must meet to conduct emergency business by giving [24, 48, or other] hours' notice to all commissioners, on the commission's website, and other means as provided in the commission's rules. Requires that the commission's legal counsel certify that the commission's need to meet qualifies as an emergency.

2. Authorizes the commission or the executive committee or other committees of the commission to convene in a closed, non-public meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:

a. non-compliance 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;

- c. current or threatened discipline of a licensee or by the commission or by a member state's licensing board;
- 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 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. matters specifically exempted from disclosure by federal or member state law; or
- l. other matters as promulgated by the commission by rule.

3. Provides that if a meeting, or portion of a meeting, is closed, the presiding officer is required to state that the meeting will be closed and reference each relevant exempting provision, and such reference is required to be recorded in the minutes.

4. Requires that the commission keep minutes that fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. Requires that all documents considered in connection with an action be identified in such minutes. Requires that all minutes and documents of a closed meeting 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

- 1. Requires that the commission pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
- 2. Authorizes the commission to accept any and all appropriate revenue sources as provided in C.12.
- 3. Authorizes the commission to 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. Requires that the aggregate annual assessment amount for member states be allocated based upon a formula that the commission is required to promulgate by rule.

4. Requires that the commission not incur obligations of any kind prior to securing the funds adequate to meet the same nor pledge the credit of any of the member states, except by and with the authority of the member state.

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

H. Qualified Immunity, Defense, and Indemnification

1. Requires that the members, officers, executive director, employees and representatives of the commission be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph is required to be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. Prohibits the procurement of insurance of any type by the commission from in any way compromising or limiting the immunity granted hereunder.

2. Requires that the commission defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein is required to be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. Requires the commission to indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Requires that nothing herein be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which be governed solely by any other applicable state laws.

5. Requires that nothing in this compact be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

6. Requires that nothing in this compact be construed to be a waiver of sovereign immunity by the member states or by the commission.

ARTICLE 10- DATA SYSTEM

A. Requires that the commission provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and the presence of current significant investigative information on all licensed individuals in member states.

B. Requires that a member state, notwithstanding any other provision of State law to the contrary, submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

1. identifying information;
2. licensure data;
3. adverse actions against a license or privilege to practice [and information related thereto];
4. non-confidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law;
5. any denial of application for licensure, and the reason(s) for such denial;
6. the presence of current significant investigative information; and
7. other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

C. Requires that information contained in the data system be considered authentic and not hearsay in any civil action involving the commission when accompanied by a certification by the commission's data system manager concerning the authenticity of the data.

D. Provides that current significant investigative information and investigative information pertaining to a licensee in any member state will only be available to other member states.

E. Provides that it is the responsibility of the member states to report any adverse action against a licensee. Provides that adverse action information pertaining to a licensee in any member state will be available to any other member state.

F. Authorizes member states contributing information to the data system to designate information that is prohibited from being shared with the public without the express permission of the contributing state.

G. Requires that 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 be removed from the data system.

ARTICLE 11- RULEMAKING

A. Requires that the commission promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. Provides that in addition to any other applicable standard of review, in the event a court of competent jurisdiction holds that the commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission is required to be invalid and have no force or effect.

B. Requires that the rules of the commission have the force of law in each member state, provided however that where the rules of the commission conflict with the state practice laws of a member state as held by a court of competent jurisdiction, the rules of the commission be ineffective in that state to the extent of the conflict.

C. Requires the commission to exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Requires that rules and amendments become binding as of the date specified in each rule or amendment.

D. Provides that 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 (4) years of the date of adoption of the rule, then such rule is required to have no further force and effect in any member state.

E. Requires that rules or amendments to the rules be adopted at a regular or special meeting of the commission.

F. Requires the commission, prior to adoption of a proposed rule, to hold a public hearing and allow persons to give oral testimony and submit written data, facts, opinions, and arguments.

G. Requires the commission prior to adoption of a proposed rule by the commission, and at least thirty (30) days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, to provide a notice of proposed rulemaking:

1. on the website of the commission or other publicly accessible platform;
2. to persons who have requested notice of the commission's notices of proposed rulemaking; and
3. in such other way(s) as the commission is authorized to by rule specify.

H. Requires that the notice of proposed rulemaking include:

1. the time, date, and location of the public hearing at which the commission will hear testimony on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;
2. if the hearing is held via telecommunication, video conference, or other electronic means, the commission is required to include the mechanism for access to the hearing in the notice of proposed rulemaking;
3. the text of the proposed rule and the reason therefor;
4. a request for comments on the proposed rule from any interested person; and
5. the manner in which interested persons is authorized to submit written comments.

I. Requires the commission, prior to adoption of a proposed rule, to allow persons to submit written data, facts, opinions, and arguments, which are required to be made available to the public.

J. Requires that the commission grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. at least 25 persons;
2. a state or federal governmental subdivision or agency; or

3. an association or organization having at least twenty-five (25) members.

K. Requires the commission to publish the place, time, and date of the scheduled public hearing if a hearing is held on the proposed rule or amendment. Requires the commission to publish the mechanism for access to the electronic hearing if the hearing is held via electronic means.

1. Requires all persons wishing to be heard at the hearing to notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Requires that hearings be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. Provides that all hearings will be recorded. Provides that a copy of the recording will be made available on request.

4. Requires that nothing in this section be construed as requiring a separate hearing on each rule. Authorizes rules to be grouped for the convenience of the commission at hearings required by this section.

L. Requires the commission to consider all written and oral comments received following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held.

M. Authorizes the commission to proceed with promulgation of the proposed rule without a public hearing if no written notice of intent to attend the public hearing by interested parties is received.

N. Requires the commission, by majority vote of all members, to take final action on the proposed rule and to determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

O. Authorizes the commission, upon determination that an emergency exists, to consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this Article are required to 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. Provides that for the purposes of this provision, an emergency rule is one that is required to be adopted immediately in order to:

1. meet an imminent threat to public health, safety, or welfare;

2. prevent a loss of commission or member state funds;

3. meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. protect public health and safety.

P. Provides that the commission or authorized committee of the commission is authorized to direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Requires that public notice of any revisions be posted on the website of the commission. Requires that the revision be subject to challenge by any person for a period of 30 days after posting. Authorizes the revision to be challenged only on grounds that the revision results in a material change to a rule. Requires that a challenge be made in writing and

delivered to the chair of the commission prior to the end of the notice period. Provides that if no challenge is made, the revision will take effect without further action. Provides that if the revision is challenged, the revision is prohibited from taking effect with the approval of the commission.

ARTICLE 12- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. Requires the executive, legislative, and judicial branches of state government in each member state to enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. Requires that the provisions of this compact and the rules promulgated hereunder have standing as statutory law.
2. Requires all courts to take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which is authorized to affect the powers, responsibilities, or actions of the commission.
3. Requires the commission to be entitled to receive service of process in any such proceeding, and have standing to intervene in such a proceeding for all purposes. Requires that failure to provide service of process to the commission render a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. Provides that if the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission is required to:
 - a. provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the commission; and
 - b. provide remedial training and specific technical assistance regarding the default.
2. Provides that if a state in default fails to cure the default, the defaulting state is authorized to be terminated from this compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact is authorized to be terminated on the effective date of termination. Provides that a cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
3. Requires that termination of membership in the compact be imposed only after all other means of securing compliance have been exhausted. Requires that notice of intent to suspend or terminate be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
4. Provides that a state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
5. Requires the commission to 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.

6. Authorizes the defaulting state to appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. Requires the prevailing member to be awarded all costs of such litigation, including attorney's fees.

C. Dispute Resolution

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

2. Requires that the commission promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. Requires the commission, in the reasonable exercise of its discretion, to enforce the provisions and rules of this compact.

2. Authorizes the commission, by majority vote, to initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. Authorizes the relief sought to include both injunctive relief and damages. Requires that the prevailing member be awarded costs of such litigation, including attorney's fees in the event judicial enforcement is necessary.

3. Requires that the remedies herein not be the exclusive remedies of the commission. Authorizes the commission to pursue any other remedies available under federal or State law.

ARTICLE 13- DATE OF IMPLEMENTATION OF THE COSMETOLOGY LICENSURE COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. Requires the compact to come into effect on the date on which the compact statute is enacted into law in the tenth member state. Requires that the provisions, which become effective at that time, be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Requires the commission to meet and exercise rulemaking powers necessary to the implementation and administration of this compact.

B. Requires any state that joins the compact subsequent to the commission's initial adoption of the rules to be subject to the rules as they exist on the date on which the compact becomes law in that state. Requires any rule that has been previously adopted by the commission to have the full force and effect of law on the day the compact becomes law in that State.

C. Authorizes any member state to withdraw from this compact by enacting a statute repealing the same.

1. Requires that a member state's withdrawal not take effect until six months after the enactment of the repealing statute.

2. Requires that withdrawal not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

D. Requires that nothing contained in this compact be construed to invalidate or prevent any cosmetology licensure agreement or other cooperative agreement between a member state and a non-member state that does not conflict with the provisions of this compact.

E. Authorizes this compact to be amended by the member states. Requires that no amendment to this compact become effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE 14- CONSTRUCTION AND SEVERABILITY

Requires this compact to be liberally construed so as to effectuate the purposes thereof. Requires that the provisions of this compact be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is prohibited from being affected thereby. Requires that if this compact be held contrary to the constitution of any member state, the compact 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.

ARTICLE 15- BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Requires that a licensee providing cosmetology services in a remote state under a multistate license functions within the laws and regulations of the remote state.

B. Provides that nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

C. Provides that any laws in a member state in conflict with this compact are superseded to the extent of the conflict.

D. Provides that lawful actions by the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

E. Provides that all agreements between the commission and the member states are binding in accordance with their terms.

F. Provides that in the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is required to be ineffective to the extent of the conflict with the constitutional provision in question in that member state.