**South Carolina General Assembly**

125th Session, 2023-2024

**A13, R21, H3605**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith, Sandifer, Carter, Kirby, Oremus, Magnuson, Pace, Long, Elliott, Burns, May, Beach, Forrest, Blackwell, B. Newton, Caskey and Ligon

Document Path: LC-0100PH23.docx

Introduced in the House on January 11, 2023

Introduced in the Senate on February 1, 2023

Last Amended on April 13, 2023

Currently residing in the House

Governor's Action: May 8, 2023, Signed

Summary: Earn and Learn Act of 2023

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/11/2023 House Introduced and read first time (House Journal‑page 34)

 1/11/2023 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 34)

 1/18/2023 House Member(s) request name added as sponsor: Carter

 1/25/2023 House Member(s) request name added as sponsor: Kirby, Oremus

 1/26/2023 House Member(s) request name added as sponsor:
 Magnuson, Pace, Long, Elliott, Burns, May, Beach

 1/26/2023 House Committee report: Favorable with amendment **Labor, Commerce and Industry** (House Journal‑page 2)

 1/27/2023 Scrivener's error corrected

 1/31/2023 House Member(s) request name added as sponsor: Forrest,
 Blackwell, B. Newton, Caskey, Ligon

 1/31/2023 House Amended (House Journal‑page 26)

 1/31/2023 House Read second time (House Journal‑page 26)

 1/31/2023 House Roll call Yeas-114 Nays-0 (House Journal‑page 28)

 2/1/2023 House Read third time and sent to Senate (House Journal‑page 18)

 2/1/2023 Senate Introduced and read first time (Senate Journal‑page 6)

 2/1/2023 Senate Referred to Committee on **Labor, Commerce and Industry** (Senate Journal‑page 6)

 2/1/2023 Scrivener's error corrected

 3/7/2023 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** (Senate Journal‑page 8)

 3/8/2023 Scrivener's error corrected

 4/13/2023 Senate Committee Amendment Adopted (Senate Journal‑page 9)

 4/13/2023 Senate Amended (Senate Journal‑page 9)

 4/13/2023 Senate Read second time (Senate Journal‑page 9)

 4/13/2023 Senate Roll call Ayes-39 Nays-0 (Senate Journal‑page 9)

 4/14/2023 Scrivener's error corrected

 4/18/2023 Senate Read third time and returned to House with amendments (Senate Journal‑page 7)

 4/20/2023 House Debate adjourned (House Journal‑page 18)

 4/26/2023 House Concurred in Senate amendment and enrolled (House Journal‑page 49)

 4/26/2023 House Roll call Yeas-111 Nays-0 (House Journal‑page 50)

 5/2/2023 Ratified R 21

 5/8/2023 Signed By Governor

 5/10/2023 Effective date 05/08/23

 5/10/2023 Act No. 13

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**VERSIONS OF THIS BILL**

[01/11/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3605_20230111.docx)

[01/27/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3605_20230127.docx)

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[03/07/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3605_20230307.docx)

[03/08/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3605_20230308.docx)

[04/13/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3605_20230413.docx)

[04/14/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3605_20230414.docx)

 4/14/2023 Scrivener's error corrected

 4/18/2023 Senate Read third time and returned to House with amendments ([Senate Journal‑page 7](file:///h%3A%5Csj%5C20230418.docx))

 4/20/2023 House Debate adjourned ([House Journal‑page 18](file:///h%3A%5Chj%5C20230420.docx))

 4/26/2023 House Concurred in Senate amendment and enrolled ([House Journal‑page 49](file:///h%3A%5Chj%5C20230426.docx))

 4/26/2023 House Roll call Yeas-111 Nays-0 ([House Journal‑page 50](file:///h%3A%5Chj%5C20230426.docx))

 5/2/2023 Ratified R 21 ([Senate Journal‑page 70](file:///h%3A%5Csj%5C20230502.docx))

 5/8/2023 Signed By Governor

 5/10/2023 Effective date 05/08/23

 5/10/2023 Act No. 13

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(A13, R21, H3605)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE “EARN AND LEARN ACT OF 2023”, BY AMENDING SECTION 40‑1‑80, RELATING TO INVESTIGATIONS OF LICENSEES, SO AS TO REQUIRE THE DIRECTOR TO SEND INFORMATION REGARDING AN INVESTIGATION TO THE LICENSEE; BY AMENDING SECTION 40‑1‑90, RELATING TO DISCIPLINARY ACTION PROCEEDINGS, SO AS TO ALLOW A LICENSEE TO REQUEST CERTIFICATION OF AN INVESTIGATION FROM THE DIRECTOR; BY AMENDING SECTION 40‑1‑140, RELATING TO EFFECT OF PRIOR CRIMINAL CONVICTIONS OF APPLICANTS, SO AS TO PROHIBIT THE DENIAL OF A LICENSE BASED SOLELY OR IN PART ON A PRIOR CRIMINAL CONVICTION IN CERTAIN CIRCUMSTANCES; AND BY ADDING SECTION 40-1-77 SO AS TO PROVIDE A METHOD TO ALLOW A WORKER TO EARN A PAYCHECK WHILE FULFILLING APPLICABLE LICENSING REQUIREMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

Citation

SECTION 1. This act may be cited as the “Earn and Learn Act of 2023”.

Investigations of licensees

SECTION 2. Section 40‑1‑80 of the S.C. Code is amended to read:

 Section 40‑1‑80. (A) If the director has reason to believe that a person has violated a provision of this article or a regulation promulgated under this article or the licensing act or regulation of a board or that a licensee has become unfit to practice the profession or occupation or if a person files a written complaint with the board or the director charging a person with the violation of a provision of this article or a regulation promulgated under this article, the director may initiate an investigation.

 (B) Within thirty days after an investigation is initiated, the director must send the licensee:

 (1) a letter advising the licensee that a complaint has been filed and that an investigation has been initiated and a request that the licensee respond in writing within fourteen days;

 (2) a copy of the complaint;

 (3) the name of the complainant, unless the board believes good cause exists to withhold the name of the complainant; and

 (4) all materials filed with the complaint.

 (C) In conducting the investigation, the director may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation including, but not limited to, the existence, description, nature, custody, condition, and location of books, documents, or other tangible items and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions propounded by the director, the director may apply to an administrative law judge for an order requiring the person to comply.

Disciplinary action proceedings

SECTION 3. Section 40‑1‑90 of the S.C. Code is amended to read:

 Section 40‑1‑90. (A) The director shall review any case that the board recommends for a formal complaint to ensure the department mailed the notice of the investigation to the licensee and provided the licensee with opportunity to respond. This shall occur before the formal complaint is issued. The director shall verify that:

 (1) the department mailed a copy of the complaint to the licensee;

 (2) the name of the complainant was provided to the licensee, unless good cause existed to withhold the name of the complainant;

 (3) the licensee was notified of the opportunity to provide a response to the complaint; and

 (4) the licensee’s response was included and considered in the investigative file.

 If the director determines that any of these procedural steps were not followed in the investigative process, the issuance of the formal complaint shall be held until such time as the procedural defects may be rectified. Nothing in this section should be construed to require the director’s review if a case is disposed of by any means other than issuance of a formal complaint.

 (B) The results of an investigation must be presented to the board. If from these results it appears that a violation has occurred or that a licensee has become unfit to practice the profession or occupation, the board, in accordance with the Administrative Procedures Act, may take disciplinary action authorized by Section 40‑1‑120. No disciplinary action may be taken unless the matter is presented to and voted upon by the board. The board may designate a hearing officer or hearing panel to conduct hearings or take other action as may be necessary under this section.

 (C) For the purpose of a proceeding under this article, the department may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records on behalf of the board or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions propounded by the board or its hearing officer or panel, the board may apply to an administrative law judge for an order requiring the person to comply with the subpoena.

Prior criminal convictions of applicants

SECTION 4. Section 40‑1‑140 of the S.C. Code is amended to read:

 Section 40‑1‑140. (A)(1) A professional or occupational board may not deny a license to an applicant solely because of a prior criminal conviction, unless the criminal conviction directly relates to the duties, responsibilities, or fitness of the occupation or profession for which the applicant is seeking a license.

 (2) Notwithstanding any other provision in a professional or occupational licensing practice act regulated by this chapter, professional and occupational boards are prohibited from using vague or generic terms including, but not limited to, “moral turpitude” or “good character”, and from considering charges that have been dismissed, nol prossed, or adjudicated with a finding of not guilty as a justification for denying an applicant a license.

 (B) An applicant who has submitted a completed licensing application may not be denied a license because of the applicant’s prior criminal conviction, unless the applicable professional or occupational licensing board has given the applicant an opportunity to appear at an application hearing to determine the applicant's fitness for the occupation or profession. The application hearing must be scheduled for the next available application hearing date for that board.

 (C) If a board denies an applicant’s license solely or in part because of the applicant’s prior criminal history, then the board must issue a written final order within thirty days following the date of the application hearing. The written order shall include:

 (1) the grounds for the denial; and

 (2) that the final order is appealable to the Administrative Law Court pursuant to Chapter 23, Title 1.

Initial license

SECTION 5. Chapter 1, Title 40 of the S.C. Code is amended by adding:

 Section 40-1-77. (A) The purpose of this section is to expand economic opportunities and build a skilled workforce according to industry standards by allowing a worker to earn a paycheck while he fulfills applicable licensing requirements.

 (B) For purposes of this section:

 (1) “Apprenticeship” means a United States Department of Labor-approved and registered apprenticeship or an industry‑recognized apprenticeship for an occupation or profession licensed by a South Carolina regulatory board or commission under the South Carolina Department of Labor, Licensing and Regulation, as approved by the applicable licensing board.

 (2) “Board” means a board, commission, or panel under the South Carolina Department of Labor, Licensing and Regulation that regulates a profession or occupation and issues a license to an individual. This definition of “board” does not include boards and commissions established and operating pursuant to Chapter 15, Title 54.

 (3) “License” means a license, certificate, registration, permit, or other evidence that an individual is qualified to engage in an occupation or profession before that person may engage in or represent himself as a member of an occupation or profession.

 (4) “Scope of practice” means the procedures, actions, processes, and work that a person may perform pursuant to a license issued by an occupation’s or profession’s regulatory board.

 (C) A board shall issue an initial license pursuant to this section to an applicant, if the applicant:

 (1) completes an apprenticeship in an occupation or profession that has a similar scope of practice, as determined by the board, to an occupation or profession regulated by this State through license requirements;

 (2) successfully passes requisite examinations;

 (3) submits a completed application and pays all applicable fees;

 (4) is not otherwise disqualified from licensure because of an applicable criminal conviction; and

 (5) completes all other requirements for initial licensure as required by the applicable licensing board in accordance with state law, only if the board imposes the same requirements on other license applicants. A board shall not require an applicant pursuant to this section to complete requirements that exceed the requirements of other license applicants for initial licensure.

 (D) If a board denies a license to an applicant under this section, then the board shall:

 (1) provide the applicant with a denial in writing; and

 (2) explain the reason for the denial in the written decision, such as whether the licensing entity determined that the applicant’s apprenticeship program does not correspond to the profession or occupation or level of license for which the applicant applied.

 (E) A license issued pursuant to this section is subject to the same provisions of law governing a license for the occupation or profession.

 (F) A board shall not require an applicant pursuant to this section to complete an apprenticeship for a greater duration of time than that which is required pursuant to federal law.

 (G) A board may require an applicant pursuant to this section to successfully pass an examination only if the board imposes the same examination requirement on other license applicants. A board shall not require an applicant pursuant to this section to receive a higher score on an examination than the score required of other license applicants.

 (H) A board may require an applicant pursuant to this section to pay a licensing fee only if the board imposes a licensing fee on other license applicants. A board shall not impose on an applicant pursuant to this section a licensing fee greater than the licensing fee imposed on other applicants.

 (I) A board may promulgate regulations necessary for the implementation of this act.

 (J) This section does not apply to:

 (1) a licensing entity that does not license individual workers for which there is a board-approved apprenticeship program;

 (2) a license that requires the educational equivalent of a bachelor’s degree or higher; or

 (3) apprenticeship programs that are established by state law.

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 2nd day of May, 2023.

Approved the 8th day of May, 2023.

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