
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2357 Session of
1993

INTRODUCED BY SCRIMENTI, GANNON, MIHALICH AND KIRKLAND,
DECEMBER 14, 1993

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
DECEMBER 14, 1993

AN ACT

1 Regulating professional photographers; establishing the State
2 Board of Professional Photographers; and making an
3 appropriation.

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8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Professional
12 Photographer Licensing Act.

13 Section 2. Legislative intent.

14 It is the intent of the General Assembly:

15 (1) To protect the consumer and promote quality in
16 photography services.

17 (2) To establish a specific level of quality and
18 accountability within this Commonwealth for professional
19 photographers.

20 Section 3. Definitions.

21 The following words and phrases when used in this act shall
22 have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Board." The State Board of Professional Photographers.

25 "Commissioner." The Commissioner of Professional and
26 Occupational Affairs.

27 "Conviction." A finding of guilty, a judgment, an admission
28 of guilt or a plea of nolo contendere.

29 "Professional photographer." A person who holds himself out
30 to the public as a photographer, photographic artist or

1 videographer for compensation or who is employed by such a
2 person to take or develop photographs. The term does not include
3 individuals who are employed in an automated developing center
4 whose sole purpose is to develop photographs taken by members of
5 the general public.

6 Section 4. License required.

7 (a) General rule.--A person may not hold himself out as a
8 professional photographer or use any words or symbols indicating
9 or tending to indicate he is a professional photographer without
10 possessing a current professional photographer's license issued
11 by the board.

12 (b) Display.--The license shall be displayed in a prominent
13 place which is visible to the public at the professional
14 photographer's primary place of conducting his business as a
15 professional photographer.

16 Section 5. State Board of Professional Photographers.

17 (a) Creation.--There is hereby created the State Board of
18 Professional Photographers as a departmental administrative
19 board in the Department of State. The board's primary purpose is
20 to regulate professional photographers.

21 (b) Board members.--The board shall consist of seven members
22 appointed by the Governor with the advice and consent of a
23 majority of the members elected to the Senate. Appointments
24 shall be made to meet the following board composition:

25 (1) Two members shall each hold a bachelor's degree of
26 fine arts with an emphasis in photography from an accredited
27 institution and shall be able to meet the requirements of
28 this act for licensure.

29 (2) Two members shall each hold an associate' degree in
30 photography from an accredited institution and shall be able

1 to meet the requirements of this act for licensure.

2 (3) One member shall have experience in teaching
3 photography at an accredited institution and shall be able to
4 meet the requirements of this act for licensure.

5 (4) One member shall represent the public.

6 (5) One member shall be the Commissioner of Professional
7 and Occupational Affairs.

8 (6) At least two of these persons shall also have
9 business experience in photography.

10 (7) At least two of these persons shall be members of
11 professional organizations which promote professionalism and
12 continuing education in the field of photography.

13 (c) Term of office.--The members shall each serve a term of
14 four years, except as provided in subsection (d).

15 (d) Initial appointments.--Within 90 days of the effective
16 date of this act, the Governor shall nominate two persons for
17 four-year terms on the board, one person for a three-year term,
18 two persons for a two-year term and one person for a one-year
19 term.

20 (e) Continuation in office.--Each board member shall
21 continue in office until a successor is duly appointed and
22 qualified but no longer than six months after the expiration of
23 the term. In the event of a vacancy or if a member becomes
24 disqualified during the term of office, a successor shall be
25 appointed in the same way and with the same qualifications as
26 set forth in this section and shall hold office for the
27 unexpired portion of the term.

28 (f) Limit on terms.--No board member shall be eligible for
29 appointment to serve more than two consecutive four-year terms.

30 (g) Forfeiture of membership.--A board member who fails to

1 attend three consecutive meetings shall forfeit the seat on the
2 board unless the commissioner, upon written request from the
3 member, finds that the member should be excused from a meeting
4 because of illness or the death of a family member.

5 (h) Compensation.--Each member of the board, except the
6 commissioner, shall receive compensation at the rate of \$60 per
7 diem when attending meeting or work sessions of the board.
8 Members shall also receive reasonable travel, hotel and other
9 necessary expenses incurred in the performance of their duties
10 in accordance with the regulations of the Commonwealth.

11 (i) Quorum.--A majority of the members of the board serving
12 in accordance with law shall constitute a quorum for purposes of
13 conducting the business of the board. Except for automatic
14 suspensions under section 10(d) a member may not be counted a
15 part of a quorum or vote on any issue unless he is physically in
16 attendance at the meeting.

17 (j) Meetings.--The board shall meet at least on a quarterly
18 basis.

19 (k) Notice.--Notice of all meetings shall be given in
20 conformity with the act of July 3, 1986 (P.L.388, No.84), known
21 as the Sunshine Act.

22 (l) Operating procedures.--The board shall meet within 30
23 days after the appointment of its initial members and set up
24 operating procedures and an application form for the licensing
25 of professional photographers. It shall be the responsibility of
26 the board to circulate these forms and educate the public to the
27 requirements of licensing in order to hold oneself out as a
28 professional photographer within this Commonwealth.

29 Section 6. Powers and duties of board.

30 The board shall have the following powers and duties:

1 (1) To determine the qualifications and fitness of
2 applicants for licenses and to adopt and revise rules and
3 regulations requiring applicants to pass examinations
4 relating to their qualifications as a prerequisite to the
5 issuance of a license.

6 (2) To adopt and revise such rules and regulations as
7 may be necessary to carry into effect the provisions of this
8 act. These regulations may include, but shall not be limited
9 to, standards of professional practice and conduct for
10 professional photographers in this Commonwealth.

11 (3) To deny, approve, issue, revoke, suspend or renew
12 licenses of professional photographers pursuant to this act
13 and to conduct hearings in connection therewith.

14 (4) To conduct hearings upon complaints concerning
15 violations of the provisions of this act and the rules and
16 regulations adopted pursuant to this act and seek the
17 prosecution and enjoinder for all such violations.

18 (5) To submit annually a report to the Professional
19 Licensure Committee of the Senate and the Professional
20 Licensure Committee of the House of Representatives
21 containing a description of the types of complaints received,
22 status of the cases, board action which has been taken,
23 length of time from the initial complaint to final board
24 resolution, number of licenses applied for, number of
25 licenses granted and number of licenses revoked.

26 (6) To submit annually to the Appropriation Committee of
27 the Senate and the Appropriation Committee of the House of
28 Representatives, 15 days after the Governor has submitted his
29 budget to the General Assembly, a copy of the budget request
30 for the upcoming fiscal year which the board previously

1 submitted to the Department of State.

2 Section 7. Requirements for licensure.

3 An applicant shall be qualified for a license as a
4 professional photographer provided he submits satisfactory proof
5 to the board that he:

6 (1) Has submitted a completed application and
7 appropriate fee to the board.

8 (2) Has demonstrated significant knowledge of all
9 aspects of photography by:

10 (i) Earning a bachelor's or associate's degree
11 relating to photography from an accredited institution.

12 (ii) Serving as an apprentice to a professional
13 photographer for a period of two years.

14 (iii) Working for two or more years as a
15 photographer in the military, a police force or a similar
16 entity.

17 (iv) Another means as the board deems in compliance.

18 (3) Has passed the examination duly adopted by the
19 board.

20 (4) Has demonstrated a high level of competence through
21 examples of photographs submitted as a portion of the
22 application.

23 (5) Has not been convicted of a crime relating to fraud
24 within the past five years unless the applicant can
25 satisfactorily demonstrate to the board that he has made
26 significant progress in personal rehabilitation since the
27 conviction.

28 Section 8. Procedures for licensing.

29 (a) Affidavit required.--Each application form submitted to
30 the board for an examination or for a license shall be duly

1 notarized.

2 (b) Issuance of license.--The board shall issue to each
3 person who meets the requirements of this act a certificate
4 which sets forth that the certificate holder is a licensed
5 professional photographer.

6 Section 9. Exemption from examination.

7 A person is exempt from examination if he submits an
8 application for licensure within one year of the effective date
9 of this act and if either:

10 (1) He submits proof that he has passed a test similar
11 in content with a grade acceptable to the board and that the
12 test was administered by an accredited educational
13 institution or by a professional organization.

14 (2) He has been in the business of professional
15 photography for ten or more years.

16 Section 10. Suspension and revocation of license.

17 (a) Grounds.--The board may refuse, suspend, revoke, limit
18 or restrict a license or reprimand a licensee, or both, for any
19 of the following:

20 (1) Being convicted of a crime involving fraud.

21 (2) Being found guilty of unprofessional conduct
22 relating to the profession and to the business of photography
23 as determined by the board.

24 (3) Violating standards of professional practice as
25 determined by the board.

26 (4) Presenting a false or deceptive biennial license
27 renewal or application to the board.

28 (5) Violating a regulation promulgated by the board or
29 violating an order of the board previously entered in a
30 disciplinary proceeding.

(6) Being unable to practice photography with reasonable skill for any reason based on specified evidence.

(b) Board action.--If the board finds that a license or application for license of a person may be refused, revoked, restricted or suspended under the terms of subsection (a), the board may:

(1) Deny the application for a license.

(2) Revoke, suspend, limit or otherwise restrict an already issued license.

(3) Place the licensee on probation.

(c) Hearing.--All actions of the board shall be taken subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with 2 Pa.C.S. (relating to Administrative Law and Procedure).

(d) Automatic suspension of license.--Upon conviction of any crime in which the person's role as a photographer was utilized in committing the crime, the person's license shall be suspended automatically. Automatic suspension shall not be stayed pending an appeal.

Section 11. Reinstatement of license.

Unless to do so either by the Commonwealth Court or upon an appeal therefrom, the board shall not reinstate a revoked license for at least five years from the date of revocation. A person whose license has been revoked may apply for reinstatement if he meets all licensing requirements, including, but not limited to, the examination requirement.

Section 12. Surrender of license.

The board shall require a person whose license has been suspended or revoked to return the license in such manner as the board directs.

1 Section 13. Use of title.

2 A person may not use the title "professional photographer"
3 unless he is licensed under this act and the license is current.

4 Section 14. License renewal.

5 Renewal of a professional photographer's license shall be on
6 a biennial basis. The board, by regulation, may require evidence
7 of professional activity or continuing education relating to
8 professional photography as a condition of license renewal.

9 Section 15. Records.

10 A record of all persons licensed to practice professional
11 photography in this Commonwealth shall be kept in the office of
12 the board and shall be open to public inspection and copying
13 upon payment of nominal fee for copying of records.

14 Section 16. Fees.

15 (a) Duty of board.--All fees required pursuant to this act
16 shall be fixed by the board by regulation and shall be subject
17 to the act of June 25, 1982 (P.L.633, No.181), known as the
18 Regulatory Review Act. If the revenues raised by fees, fines and
19 civil penalties imposed pursuant to this act are not sufficient
20 to meet expenditures over a two-year period, the board shall
21 increase those fees by regulation so that projected revenues
22 will meet or exceed projected expenditures.

23 (b) Duty of bureau.--If the Bureau of Professional and
24 Occupational Affairs determines that the fees established by the
25 board pursuant to subsection (a) are inadequate to meet the
26 minimum enforcement efforts required by this act, then the
27 bureau, after consultation with the board and subject to the
28 Regulatory Review Act, shall increase the fees and fines by
29 regulation in an amount so that adequate revenues are raised to
30 meet the required enforcement effort.

1 Section 17. Unlawful practices.

2 (a) Prohibited.--It shall be unlawful for any person to hold
3 himself out as a professional photographer without possessing a
4 valid, unexpired, unrevoked or unsuspended license issued under
5 this act.

6 (b) Injunction.--Unlawful practice may be enjoined by the
7 courts upon petition of the commissioner or the board. In any
8 proceeding under this section, it shall not be necessary to show
9 that any person is individually injured by the actions
10 complained of. If the court finds that the respondent has
11 violated this section, it shall enjoin him from so practicing
12 until he has been duly licensed. Procedure in such cases shall
13 be the same as in any other injunction suit.

14 (c) Remedy cumulative.--The injunctive remedy provided in
15 this section shall be in addition to any other civil or criminal
16 prosecution and punishment.

17 Section 18. Subpoenas.

18 The board shall have the authority to issue subpoenas, upon
19 application of an attorney responsible for representing the
20 Commonwealth in disciplinary matters before the board, for the
21 purpose of investigating alleged violations of the disciplinary
22 provisions administered by the board. The board shall have the
23 power to subpoena witnesses, to administer oaths, to examine
24 witnesses and to take such testimony or to compel the production
25 of evidence. The court may impose limitations on the scope of
26 the subpoena as are necessary to prevent unnecessary intrusion
27 or invasion of privacy. The board shall apply to the
28 Commonwealth Court to enforce its subpoenas.

29 Section 19. Penalties.

30 (a) Civil.--In addition to any other civil remedy or

1 criminal penalty provided for in this act, the board by a vote
2 of a majority of members may levy a civil penalty of up to
3 \$1,000 on any current licensee who violates any provision of
4 this act or any person who holds himself out as a professional
5 photographer without being licensed pursuant to this act. The
6 board shall levy this penalty only after affording the accused
7 party notice and the opportunity for a hearing, as provided in 2
8 Pa.C.S. (relating to administrative law and procedure).

9 (b) Criminal.--A person who violates a provision of this act
10 commits a misdemeanor of the third degree and shall, upon
11 conviction, be sentenced to pay a fine up to \$1,000 or to
12 imprisonment for not more than 90 days, or both.

13 (c) Disposition.--All fines and civil penalties imposed in
14 accordance with this section shall be paid into the Professional
15 Licensure Augmentation Account.

16 Section 20. Appropriation.

17 The sum of \$95,000, or as much therefor as may be necessary,
18 is hereby appropriated from the Professional Licensure
19 Augmentation Account within the General Fund to the Bureau of
20 Professional and Occupational Affairs in the Department of State
21 for the payment of costs of processing licenses and renewals,
22 for the operation of the board and for other general costs of
23 the bureau operations relating to this act. The appropriation
24 granted shall be repaid by the board within three years of the
25 beginning of issuance of licenses by the board.

26 Section 21. Effective date.

27 This act shall take effect in one year.