



HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1440
TTY: (207) 287-4469

John Andrews

P.O. Box 118
Paris, ME 04271
Cell Phone: (207) 739-9075
John.Andrews@legislature.maine.gov

Senator Baldacci, Representative Matlack and honorable members of the State and Local Government Committee. My name is John Andrews and I represent the towns of Buckfield, Hebron and Paris that make up District 73 in the foothills of western Maine. I am here to present my bill LD 835 'An Act to Allow Citizens to Petition Government Agencies to Repeal or Modify Occupational Regulations.'

Known as 'The Right to Earn a Living Act' in Arizona and Tennessee where it was passed and enacted LD 835 does two primary things -

First, the legislation simply requires that any regulation that limits participation in a job or profession be limited to those demonstrated to be necessary to specifically fulfill a public health, safety, or welfare concern. This ensures that the regulation does not unnecessarily burden a person's ability to enter an occupation, trade or profession.

Second, if a regulation is on the books that violates the law, a person harmed by the regulation can ask the agency to repeal or modify the restriction. If the agency decides not to change or repeal the regulation, the citizen can at any time petition the agency or the District Court to repeal or modify a rule that does not meet the standard of review required by this legislation. This is imperative for accountability to the people.

The Right to Earn a Living Act changes the way courts must interpret agency regulations. Instead of automatically assuming the agency has the authority to restrict entry into a profession, courts would assume they don't have that authority unless the regulation is "demonstrated to be necessary to specifically fulfill a public health, safety, or welfare concern."

The Act provides substantive protection for the right of Mainers to seek work without having to jump through unnecessary and unjustified hoops while at the same time preserving the ability of state regulatory agencies and local governments to protect the public through legitimate and proportionate health and safety regulations.

Some will say that this will lead to unnecessary litigation, but this has not been the case in Arizona. If anything, the limited litigation has proved to be very necessary. The benefit of the law is that agencies know that citizens are now able to push back on protectionist decisions and thereby modify their actions to be within the confines of the law. An example in Arizona is the case of Annette Stanley vs. the AZ Board of Behavioral Health.

Ms. Stanley moved from Kansas to Arizona in 2014, and she sought a license to practice in her new state. But because she had owned her own practice, the state of Arizona would not recognize the hours she accumulated for her Kansas license. Although the licensing board recognized that she was fully qualified, this arbitrary requirement prevented her from receiving her license.

Ms. Stanley, under the provisions of the Right to Earn a Living Act, chose to petition the Board for a redress of grievances. After the Board heard Ms. Stanley's case earlier, they granted her petition to allow her to practice in Arizona, and they also resolved to modify the rule that kept her from practicing. This improved things for both the petitioner and the Board's governance.

Jon Riches, one of Ms. Stanley's lawyers, remarked that,

“This case shows why the Right to Earn a Living Act was such an important step for Arizona's hardworking job seekers. We're grateful that the Board conscientiously met with Ms. Stanley to make sure that her right to earn a living was protected as the law requires, and we're grateful that the Governor signed into law the nation's strongest law protecting the critical right to economic freedom. We look forward to working with the Board in the coming days to ensure that the rights of Arizona's businessmen and women are secured, while respecting the Board's authority to protect consumers.”

All public officials, whether elected or unelected, have a duty to ensure that the rules of the game are fair and that equal opportunities are available to all to pursue the American Dream. All sides must work together to secure peoples' economic freedoms and ability to earn a living anywhere one chooses in this country. Fulfilling that duty requires significant and effective corrective action. LD 835, 'An Act to Allow Citizens to Petition Government Agencies to Repeal or Modify Occupational Regulations', will ensure that all current and future Mainers have a right to rise and excel in the profession of their choice. It will also make it much easier for people to choose Maine to move to and help expand our workforce in the 21st century.

Thank you for your time and commitment to public service.

Respectfully,

John Andrews
State Representative
District 73

to determine whether the rule is necessary and carefully 18 tailored to protect health, safety and welfare. After review, the agency is required to 20 repeal or modify every rule that does not meet the standard of review or recommend to the 21 Legislature the necessary steps to repeal or modify the rule if it is not within the agency's 22 authority to do so.