



Governor's Office of Economic Opportunity

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To: The Governor
Business and Labor Interim Committee
Economic Development and Workforce Services Interim Committee
From: Dane Ishihara, Director Office of Regulatory Relief on behalf of Ryan Starks the
Executive Director of the Governor's Office of Economic Opportunity
Subject: Utah Office of Regulatory Relief Annual Report

Purpose

The historical annual reporting requirements under UCA 63N-16-105 where:

(1) The executive director shall include in the annual report described in Section 63N-1a-306 a written report from the director on the activities of the regulatory relief office, which report shall include:

(a) information regarding each participant in the regulatory sandbox created in Section 63N-16-201, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced;

(b) recommendations regarding any laws or regulations that should be permanently modified;

(c) information regarding outcomes for consumers; and

(d) recommendations for changes to the regulatory sandbox program or other duties of the regulatory relief office.

(2) By October 1 of each year, the executive director shall provide the written report from the director on the activities of the regulatory relief office described in Subsection (1) to the Business and Labor Interim Committee.

During the 2024 legislative session HB282 passed and amended the reporting requirements to:

(2)The annual report described in Subsection (1) shall include:

(a)information regarding each participant in the regulatory sandbox created in Section 63N-16-201, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced;

(b)recommendations regarding any laws or regulations that should be permanently modified;

(c)information regarding outcomes for consumers;

(d)recommendations for changes to the regulatory sandbox program or other duties of the regulatory relief office; and

(e)the information described in Subsection 63N-16-302(5).

This report will follow the historical reporting requirements and beginning in FY25 the new reporting requirements will be followed.

Report

Activities of the regulatory relief office

In the last year, the Office of Regulatory Relief (ORR) received eight applications for the General Regulatory Sandbox, representing various industries in the state. None have been approved and are currently participating in the Regulatory Sandbox. Our office assisted three applicants in connecting them to the proper state agency or industry for further assistance. One applicant was denied entrance, two applicants withdrew their application, and two applications are still pending. The following sections describe the applications received, why certain applicants were denied, and the consumer outcomes for participating applicants.

Assisted

ORR received many responses from applicants who thought the Regulatory Sandbox was the correct route for their business. After careful consideration, it was determined that other state agencies were better suited to assist, and appropriate action was taken to address each case.

The first application for this fiscal year was IsoTalent, Inc., a global recruiting and employment firm specializing in helping businesses source and identify qualified workers in the U.S. and abroad. The companies wanted to explore opportunities for foreign-educated healthcare professionals to become licensed in Utah. They were interested in having the following Utah codes be waived: Utah Code § 58-31b-302, § 58-31b-30, § R156-31b-302f, and § 58-1-302. After the Utah Division of Professional Licensing (DOPL) reviewed the application, it was determined that going through the regulatory sandbox was unnecessary, and these companies could work with the DOPL to determine the next steps for their businesses.

Another application was for ZenniHome, LLC, a construction company that builds affordable homes. They were interested in having the following codes waived by entering the regulatory sandbox: Utah Codes §15A-1-202, § 302, § 304, § 306, § 207, § 308, and § 309. Modular Building Institute Standard 1200 and Standard 1205 (ICC 1200 and 1205). Legislation passed during the 2024 general session created the ability to have modular housing plans approved at the state level and inspected by third-party inspectors at the modular factory. ZenniHome, LLC was in full support of the bill and its language, but there were concerns about when the law would be implemented. The company was connected to the state's Division of Facilities Construction and Management (DFCM) to discuss the issue further. It was decided the time frame would not be expedited to meet the company's individual needs, but coordinated consultations provided to DFCM could be considered during the wait time for implementation.

Lastly, Hydrofy applied for a hydrogen-based hydration formula seeking relief from federal regulation. We informed the company that ORR does not handle federal regulations. We connected them to industry partners for further assistance.

Denied Entry

The only application denied by the Regulatory Sandbox was DeSure Insurance. The company submitted a sandbox application to waive Utah Code § 63N-16-201(9) to offer an unregulated life insurance product. The application was sent to the appropriate state agency, the Insurance Department, which provided its written report in response to the company's sandbox application.

In that letter, they recommended their application be denied for the following reasons:

The proposal is prohibited by federal law.

The application was incomplete.

The proposal does not protect consumers. The company proposed offering a life insurance product to Utah consumers. According to the company, consumers would become members of a program where they and others will "sign up and deposit funds into a digital wallet. When an independently verified death of a member occurs, all members' wallets [would be] automatically debited a small amount to crowdfund a life insurance payout for the deceased member's beneficiaries." This program qualifies as insurance because it distributes the risk of loss from death among the program members. According to Utah Code § 31A-1-301(93), insurance means, "an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk." For that reason, DeSure's program is subject to regulation under the Insurance Code. Utah Code § 31A-1-102(6) (the Insurance Code preserves state regulation of insurance).

Withdrawn

At the beginning of this year, ORR received an application from Red Mesa Science and Refining, a business in the hemp industry. Their application requested relief from Utah Code § 4-41-105(2)(b), which states, "It is unlawful for any person to transport into or out of the state extracted material or final product that contains 0.3% or more of total tetrahydrocannabinol (THC)." The request would allow the company to import and export crude material with up to 20% total THC. That amount of delta-9 THC would remove the material from being considered hemp and into the category of marijuana. As determined by the Utah Department of Agriculture and Food (UDAF) the movement of this product at such a high percentage of delta-9 THC across state lines would trigger federal drug laws. In addition to being defined as marijuana, the movement of the product over state lines would trigger §21 USC 841(1), which states it is "unlawful for any person knowingly, or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense a controlled substance." At this time, ORR was aware that HB 52, the Industrial Hemp Amendments from the 2024 legislative session, was being implemented. Our office and UDAF chose not to take a position that contradicts federal law without instruction from the state legislature. We based our decision on

the directives provided by HB 52, Industrial Hemp Amendments. Since HB 52 eventually passed and provided the direction the company needed, the request to go through the regulatory sandbox was unnecessary.

Another withdrawn application was for a wedding venue to be built in Heber Valley. The proposed development was on the west side of S.R. 32, north of Woodsmere Road in Heber City, Utah. The project includes an event venue with 55 parking stalls. The venue will comfortably accommodate 100 to 150 guests but can accommodate up to 200. Before coming to ORR, this applicant reached out to the Utah Department of Transportation (UDOT) and was told that to have people safely enter the event area, the road leading up to the event center needed to be widened in accordance with the UDOT Administrative Rule R930-6. The applicant came to our office requesting to waive this rule due to the burdensome costs that this project would have on their small business. ORR met with UDOT to understand the regulations and determine the need to widen the road for the wedding venue. During the discussion, it was noted that several car accidents had occurred on that road due to insufficient deceleration time and space. UDOT provided the applicant with minimum requirements to reduce construction costs and burdens. Based on guidance from UDOT and ORR, we determined that waiving the rule would compromise public safety for drivers entering the venue area. Therefore, the application was withdrawn before it was officially submitted.

Pending

The first pending application is for the skincare industry. Draper Dermatology is a full-service dermatology office that provides patients with medical expertise, education, and cosmetic and laser treatments. They are seeking relief from the Utah code § 58-1-505(1b), § 58-1-507, § 58-1-506(2), § 58-1-506(3), § 58-67-805, and §58-68-805. As a Physician Assistant (PA), the applicant will purchase Draper Dermatology from its current owner, making it possible for PAs to own and operate the office. Under the current law, PAs cannot operate lasers and other devices owned by Draper Dermatology, rendering over \$400,000 of equipment unusable. With 20 years of experience as a PA, including 15 years specializing in dermatology, she is well-qualified to work independently without a doctor's supervision. However, the current legal statute prohibits her from utilizing several procedures and devices at Draper Dermatology without the supervision of a physician. Under this law, she also cannot utilize any ablative, even with a doctor's supervision, and must delegate any of these procedures to a licensed aesthetician.

The second pending application is also from the skincare industry and seeks relief from the same regulations: Utah code § 58-1-505(1b), § 58-1-507, § 58-1-506(2), § 58-1-506(3), § 58-67-805, and §58-68-805. Alchemy Medical Aesthetics, LLC offers the same services and is confident in its expertise to provide them without supervision. We are currently in the process of scheduling a committee meeting to review the two applications.

Additional Reporting Requirements

(a) information regarding each participant in the regulatory sandbox created in Section 63N-16-201, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced and (c) information regarding outcomes for consumers;

- During FY24 there were no participants in the regulatory sandbox and no data collected related to consumer outcomes.

(b) recommendations regarding any laws or regulations that should be permanently modified;

- During FY24 the office does not have any recommendations for laws or regulations that should be permanently modified.

(d) recommendations for changes to the regulatory sandbox program or other duties of the regulatory relief office.

- The office does not have recommendations for changes to the office.

Also, under UCA 63N-16-301 the office is responsible for providing, on at least a quarterly basis, a report that describes the most common regulatory suggestions. For the first quarter of FY25 there are no additional comments other than those described in this report.