

House Bill 154

By: Representatives Scott of the 76th, Schofield of the 63rd, and Davis of the 87th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 43 of the Official Code of Georgia Annotated, relating to
2 barbers and cosmetologists, so as to enter into an interstate compact known as the
3 "Cosmetology Licensure Compact"; to revise certain licensing provisions; to authorize the
4 State Board of Cosmetology and Barbers to administer the compact in this state; to authorize
5 the board to conduct national background checks; to provide for conditions; to provide for
6 eligibility; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 10 of Title 43 of the Official Code of Georgia Annotated, relating to barbers and
10 cosmetologists, is amended by adding new subsections to Code Section 43-10-2, relating to
11 the State Board of Cosmetology and Barbers and its members, meetings, officers, and
12 powers, to read as follows:

13 "(j) The board shall administer the Cosmetology Licensure Compact contained in Article 2
14 of this chapter.

15 (k) The board is authorized to conduct national background checks by the submission of
16 fingerprints to the Federal Bureau of Investigation through the Georgia Crime Information

17 Center; provided, however, that reports from such background checks shall not be shared
18 with entities outside of this state."

19 **SECTION 2.**

20 Said chapter is further amended by adding a new Code section to read as follows:

21 "43-10-9.1.

22 Any applicant for licensure as a cosmetologist under this chapter shall have satisfactory
23 results from a fingerprint record check report conducted by the Georgia Crime Information
24 Center and the Federal Bureau of Investigation, as determined by the board. Application
25 for a license as a cosmetologist under this chapter shall constitute express consent and
26 authorization for the board to perform a criminal background check. Each applicant who
27 submits an application to the board for a license as a cosmetologist agrees to provide the
28 board with any and all information necessary to run a criminal background check,
29 including, but not limited to, classifiable sets of fingerprints. Any such applicant shall be
30 responsible for all fees associated with the performance of such background check."

31 **SECTION 3.**

32 Said chapter is further amended by redesignating provisions of said chapter as Article 1, by
33 replacing "this chapter" and "This chapter" with "this article" and "This article" everywhere
34 each such term occurs in the new article, respectively, and by adding a new article to read
35 as follows:

36 "ARTICLE 2

37 43-10-30.

38 This article shall be known and may be cited as the 'Cosmetology Licensure Compact Act.'

39 43-10-31.

40 The Cosmetology Licensure Compact is enacted into law and entered into by the State of
41 Georgia with any and all other states legally joining therein in the form substantially as
42 follows:

43 'COSMETOLOGY LICENSURE COMPACT

44 ARTICLE 1- PURPOSE

45 The purpose of this Compact is to facilitate the interstate practice and regulation of
46 Cosmetology with the goal of improving public access to, and the safety of, Cosmetology
47 Services and reducing unnecessary burdens related to Cosmetology licensure. Through this
48 Compact, the Member States seek to establish a regulatory framework which provides for
49 a new multistate licensing program. Through this new licensing program, the Member
50 States seek to provide increased value and mobility to licensed Cosmetologists in the
51 Member States, while ensuring the provision of safe, effective, and reliable services to the
52 public. This Compact is designed to achieve the following objectives, and the Member
53 States hereby ratify the same intentions by subscribing hereto:

54 A. Provide opportunities for interstate practice by Cosmetologists who meet uniform
55 requirements for multistate licensure;

56 B. Enhance the abilities of Member States to protect public health and safety, and
57 prevent fraud and unlicensed activity within the profession;

58 C. Ensure and encourage cooperation between Member States in the licensure and
59 regulation of the Practice of Cosmetology;

60 D. Support relocating military members and their spouses;

61 E. Facilitate the exchange of information between Member States related to the
62 licensure, investigation, and discipline of the Practice of Cosmetology;

63 F. Provide for the licensure and mobility of the workforce in the profession, while
64 addressing the shortage of workers and lessening the associated burdens on the Member
65 States.

66 ARTICLE 2- DEFINITIONS

67 As used in this Compact, and except as otherwise provided, the following definitions shall
68 govern the terms herein:

69 A. "Active Duty Military" means any individual in full-time duty status in the active
70 uniformed service of the United States including members of the National Guard and
71 Reserve.

72 B. "Adverse Action" means any administrative, civil, equitable, or criminal action
73 permitted by a Member State's laws which is imposed by a State Licensing Authority or
74 other regulatory body against a Cosmetologist, including actions against an individual's
75 license or Authorization to Practice such as revocation, suspension, probation, monitoring
76 of the Licensee, limitation of the Licensee's practice, or any other Encumbrance on a
77 license affecting an individual's ability to participate in the Cosmetology industry,
78 including the issuance of a cease and desist order.

79 C. "Authorization to Practice" means a legal authorization associated with a Multistate
80 License permitting the Practice of Cosmetology in that Remote State, which shall be
81 subject to the enforcement jurisdiction of the State Licensing Authority in that Remote
82 State.

83 D. "Alternative Program" means a non-disciplinary monitoring or prosecutorial diversion
84 program approved by a Member State's State Licensing Authority.

85 E. "Background Check" means the submission of information for an applicant for the
86 purpose of obtaining that applicant's criminal history record information, as further
87 defined in 28 C.F.R. § 20.3(d), from the Federal Bureau of Investigation and the agency

88 responsible for retaining State criminal or disciplinary history in the applicant's Home
89 State.

90 F. "Charter Member State" means Member States who have enacted legislation to adopt
91 this Compact where such legislation predates the effective date of this Compact as
92 defined in Article 13.

93 G. "Commission" the government agency whose membership consists of all States that
94 have enacted this Compact, which is known as the Cosmetology Licensure Compact
95 Commission, as defined in Article 9, and which shall operate as an instrumentality of the
96 Member States.

97 H. "Cosmetologist" means an individual licensed in their Home State to practice
98 Cosmetology.

99 I. "Cosmetology", "Cosmetology Services", and the "Practice of Cosmetology" mean the
100 care and services provided by a Cosmetologist as set forth in the Member State's statutes
101 and regulations in the State where the services are being provided.

102 J. "Current Significant Investigative Information" means:

103 1. Investigative Information that a State Licensing Authority, after an inquiry or
104 investigation that complies with a Member State's due process requirements, has reason
105 to believe is not groundless and, if proved true, would indicate a violation of that State's
106 laws regarding fraud or the Practice of Cosmetology; or

107 2. Investigative Information that indicates that a Licensee has engaged in fraud or
108 represents an immediate threat to public health and safety, regardless of whether the
109 Licensee has been notified and had an opportunity to respond.

110 K. "Data System" means a repository of information about Licensees, including but not
111 limited to license status, Investigative Information, and Adverse Actions.

112 L. "Disqualifying Event" means any event which shall disqualify an individual from
113 holding a Multistate License under this Compact, which the Commission may by Rule
114 or order specify.

- 115 M. "Encumbered License" means a license in which an Adverse Action restricts the
116 Practice of Cosmetology by a Licensee, or where said Adverse Action has been reported
117 to the Commission.
- 118 N. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and
119 unrestricted Practice of Cosmetology by a State Licensing Authority.
- 120 O. "Executive Committee" means a group of delegates elected or appointed to act on
121 behalf of, and within the powers granted to them by, the Commission.
- 122 P. "Home State" means the Member State which is a Licensee's primary State of
123 residence, and where that Licensee holds an active and unencumbered license to practice
124 Cosmetology.
- 125 Q. "Investigative Information" means information, records, or documents received or
126 generated by a State Licensing Authority pursuant to an investigation or other inquiry.
- 127 R. "Jurisprudence Requirement" means the assessment of an individual's knowledge of
128 the laws and rules governing the Practice of Cosmetology in a State.
- 129 S. "Licensee" means an individual who currently holds a license from a Member State
130 to practice as a Cosmetologist.
- 131 T. "Member State" means any State that has adopted this Compact.
- 132 U. "Multistate License" means a license issued by and subject to the enforcement
133 jurisdiction of the State Licensing Authority in a Licensee's Home State, which authorizes
134 the Practice of Cosmetology in Member States and includes Authorizations to Practice
135 Cosmetology in all Remote States pursuant to this Compact.
- 136 V. "Remote State" means any Member State, other than the Licensee's Home State.
- 137 W. "Rule" means any rule or regulation promulgated by the Commission under this
138 Compact which has the force of law.
- 139 X. "Single-State License" means a Cosmetology license issued by a Member State that
140 authorizes practice of Cosmetology only within the issuing State and does not include any
141 authorization outside of the issuing State.

142 Y. "State" means a State, territory, or possession of the United States and the District of
143 Columbia.

144 Z. "State Licensing Authority" means a Member State's regulatory body responsible for
145 issuing Cosmetology licenses or otherwise overseeing the Practice of Cosmetology in that
146 State.

147 ARTICLE 3- MEMBER STATE REQUIREMENTS

148 A. To be eligible to join this Compact, and to maintain eligibility as a Member State, a
149 State must:

- 150 1. License and regulate Cosmetology;
- 151 2. Have a mechanism or entity in place to receive and investigate complaints about
152 Licensees practicing in that State;
- 153 3. Require that Licensees within the State pass a Cosmetology competency
154 examination prior to being licensed to provide Cosmetology Services to the public in
155 that State;
- 156 4. Require that Licensees satisfy educational or training requirements in Cosmetology
157 prior to being licensed to provide Cosmetology Services to the public in that State;
- 158 5. Implement procedures for considering one or more of the following categories of
159 information from applicants for licensure: criminal history; disciplinary history; or
160 Background Check. Such procedures may include the submission of information by
161 applicants for the purpose of obtaining an applicant's Background Check as defined
162 herein;
- 163 6. Participate in the Data System, including through the use of unique identifying
164 numbers;
- 165 7. Share information related to Adverse Actions with the Commission and other
166 Member States, both through the Data System and otherwise;

167 8. Notify the Commission and other Member States, in compliance with the terms of
168 the Compact and Rules of the Commission, of the existence of Investigative
169 Information or Current Significant Investigative Information in the State's possession
170 regarding a Licensee practicing in that State;

171 9. Comply with such Rules as may be enacted by the Commission to administer the
172 Compact; and

173 10. Accept Licensees from other Member States as established herein.

174 B. Member States may charge a fee for granting a license to practice Cosmetology.

175 C. Individuals not residing in a Member State shall continue to be able to apply for a
176 Member State's Single-State License as provided under the laws of each Member State.
177 However, the Single-State License granted to these individuals shall not be recognized
178 as granting a Multistate License to provide services in any other Member State.

179 D. Nothing in this Compact shall affect the requirements established by a Member State
180 for the issuance of a Single-State License.

181 E. A Multistate License issued to a Licensee by a Home State to a resident of that State
182 shall be recognized by each Member State as authorizing a Licensee to practice
183 Cosmetology in each Member State.

184 F. At no point shall the Commission have the power to define the educational or
185 professional requirements for a license to practice Cosmetology. The Member States
186 shall retain sole jurisdiction over the provision of these requirements.

187 ARTICLE 4- MULTISTATE LICENSE

188 A. To be eligible to apply to their Home State's State Licensing Authority for an initial
189 Multistate License under this Compact, a Licensee must hold an active and
190 unencumbered Single-State License to practice Cosmetology in their Home State.

191 B. Upon the receipt of an application for a Multistate License, according to the Rules of
192 the Commission, a Member State's State Licensing Authority shall ascertain whether the
193 applicant meets the requirements for a Multistate License under this Compact.

194 C. If an applicant meets the requirements for a Multistate License under this Compact
195 and any applicable Rules of the Commission, the State Licensing Authority in receipt of
196 the application shall, within a reasonable time, grant a Multistate License to that
197 applicant, and inform all Member States of the grant of said Multistate License.

198 D. A Multistate License to practice Cosmetology issued by a Member State's State
199 Licensing Authority shall be recognized by each Member State as authorizing the practice
200 thereof as though that Licensee held a Single-State License to do so in each Member
201 State, subject to the restrictions herein.

202 E. A Multistate License granted pursuant to this Compact may be effective for a definite
203 period of time, concurrent with the licensure renewal period in the Home State.

204 F. To maintain a Multistate License under this Compact, a Licensee must:

205 1. Agree to abide by the rules of the State Licensing Authority, and the State scope of
206 practice laws governing the Practice of Cosmetology, of any Member State in which
207 the Licensee provides services;

208 2. Pay all required fees related to the application and process, and any other fees which
209 the Commission may by Rule require; and

210 3. Comply with any and all other requirements regarding Multistate Licenses which the
211 Commission may by Rule provide.

212 G. A Licensee practicing in a Member State is subject to all scope of practice laws
213 governing Cosmetology Services in that State.

214 H. The Practice of Cosmetology under a Multistate License granted pursuant to this
215 Compact will subject the Licensee to the jurisdiction of the State Licensing Authority, the
216 courts, and the laws of the Member State in which the Cosmetology Services are
217 provided.

218 ARTICLE 5- REISSUANCE OF A MULTISTATE LICENSE

219 BY A NEW HOME STATE

220 A. A Licensee may hold a Multistate License, issued by their Home State, in only one
221 Member State at any given time.

222 B. If a Licensee changes their Home State by moving between two Member States:

223 1. The Licensee shall immediately apply for the reissuance of their Multistate License
224 in their new Home State. The Licensee shall pay all applicable fees and notify the prior
225 Home State in accordance with the Rules of the Commission.

226 2. Upon receipt of an application to reissue a Multistate License, the new Home State
227 shall verify that the Multistate License is active, unencumbered and eligible for
228 reissuance under the terms of the Compact and the Rules of the Commission. The
229 Multistate License issued by the prior Home State will be deactivated and all Member
230 States notified in accordance with the applicable Rules adopted by the Commission.

231 3. If required for initial licensure, the new Home State may require a Background
232 Check as specified in the laws of that State, or the compliance with any Jurisprudence
233 Requirements of the new Home State.

234 4. Notwithstanding any other provision of this Compact, if a Licensee does not meet
235 the requirements set forth in this Compact for the reissuance of a Multistate License by
236 the new Home State, then the Licensee shall be subject to the new Home State
237 requirements for the issuance of a Single-State License in that State.

238 C. If a Licensee changes their primary state of residence by moving from a Member
239 State to a non-Member State, or from a non-Member State to a Member State, then the
240 Licensee shall be subject to the State requirements for the issuance of a Single-State
241 License in the new Home State.

242 D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single-State
243 License in multiple States; however, for the purposes of this Compact, a Licensee shall
244 have only one Home State, and only one Multistate License.

245 E. Nothing in this Compact shall interfere with the requirements established by a
246 Member State for the issuance of a Single-State License.

247 ARTICLE 6- AUTHORITY OF THE COMPACT COMMISSION

248 AND MEMBER STATE LICENSING AUTHORITIES

249 A. Nothing in this Compact, nor any Rule or regulation of the Commission, shall be
250 construed to limit, restrict, or in any way reduce the ability of a Member State to enact
251 and enforce laws, regulations, or other rules related to the Practice of Cosmetology in that
252 State, where those laws, regulations, or other rules are not inconsistent with the
253 provisions of this Compact.

254 B. Insofar as practical, a Member State's State Licensing Authority shall cooperate with
255 the Commission and with each entity exercising independent regulatory authority over
256 the Practice of Cosmetology according to the provisions of this Compact.

257 C. Discipline shall be the sole responsibility of the State in which Cosmetology Services
258 are provided. Accordingly, each Member State's State Licensing Authority shall be
259 responsible for receiving complaints about individuals practicing Cosmetology in that
260 State, and for communicating all relevant Investigative Information about any such
261 Adverse Action to the other Member States through the Data System in addition to any
262 other methods the Commission may by Rule require.

263 ARTICLE 7- ADVERSE ACTIONS

264 A. A Licensee's Home State shall have exclusive power to impose an Adverse Action
265 against a Licensee's Multistate License issued by the Home State.

266 B. A Home State may take Adverse Action on a Multistate License based on the
267 Investigative Information, Current Significant Investigative Information, or Adverse
268 Action of a Remote State.

269 C. In addition to the powers conferred by State law, each Remote State's State Licensing
270 Authority shall have the power to:

271 1. Take Adverse Action against a Licensee's Authorization to Practice Cosmetology
272 through the Multistate License in that Member State, provided that:

273 a. Only the Licensee's Home State shall have the power to take Adverse Action
274 against the Multistate License issued by the Home State; and

275 b. For the purposes of taking Adverse Action, the Home State's State Licensing
276 Authority shall give the same priority and effect to reported conduct received from
277 a Remote State as it would if such conduct had occurred within the Home State. In
278 so doing, the Home State shall apply its own State laws to determine the appropriate
279 action.

280 2. Issue cease and desist orders or impose an Encumbrance on a Licensee's
281 Authorization to Practice within that Member State.

282 3. Complete any pending investigations of a Licensee who changes their primary state
283 of residence during the course of such an investigation. The State Licensing Authority
284 shall also be empowered to report the results of such an investigation to the
285 Commission through the Data System as described herein.

286 4. Issue subpoenas for both hearings and investigations that require the attendance and
287 testimony of witnesses, as well as the production of evidence. Subpoenas issued by a
288 State Licensing Authority in a Member State for the attendance and testimony of
289 witnesses or the production of evidence from another Member State shall be enforced
290 in the latter State by any court of competent jurisdiction, according to the practice and
291 procedure of that court applicable to subpoenas issued in proceedings before it. The
292 issuing State Licensing Authority shall pay any witness fees, travel expenses, mileage,
293 and other fees required by the service statutes of the State in which the witnesses or
294 evidence are located.

295 5. If otherwise permitted by State law, recover from the affected Licensee the costs of
296 investigations and disposition of cases resulting from any Adverse Action taken against
297 that Licensee.

298 6. Take Adverse Action against the Licensee's Authorization to Practice in that State
299 based on the factual findings of another Remote State.

300 D. A Licensee's Home State shall complete any pending investigation(s) of a
301 Cosmetologist who changes their primary state of residence during the course of the
302 investigation(s). The Home State shall also have the authority to take appropriate
303 action(s) and shall promptly report the conclusions of the investigations to the Data
304 System.

305 E. If an Adverse Action is taken by the Home State against Licensee's Multistate
306 License, the Licensee's Authorization to Practice in all other Member States shall be
307 deactivated until all Encumbrances have been removed from the Home State license. All
308 Home State disciplinary orders that impose an Adverse Action against a Licensee's
309 Multistate License shall include a statement that the Cosmetologist's Authorization to
310 Practice is deactivated in all Member States during the pendency of the order.

311 F. Nothing in this Compact shall override a Member State's authority to accept a
312 Licensee's participation in an Alternative Program in lieu of Adverse Action. A
313 Licensee's Multistate License shall be suspended for the duration of the Licensee's
314 participation in any Alternative Program.

315 G. Joint Investigations

316 1. In addition to the authority granted to a Member State by its respective scope of
317 practice laws or other applicable State law, a Member State may participate with other
318 Member States in joint investigations of Licensees.

319 2. Member States shall share any investigative, litigation, or compliance materials in
320 furtherance of any joint or individual investigation initiated under the Compact.

321 ARTICLE 8- ACTIVE DUTY MILITARY AND THEIR SPOUSES

322 Active Duty Military personnel, or their spouses, shall designate a Home State where the
323 individual has a current license to practice Cosmetology in good standing. The individual
324 may retain their Home State designation during any period of service when that
325 individual or their spouse is on active duty assignment.

326 ARTICLE 9- ESTABLISHMENT AND OPERATION

327 OF THE COSMETOLOGY LICENSURE COMPACT COMMISSION

328 A. The Compact Member States hereby create and establish a joint government agency
329 whose membership consists of all Member States that have enacted the Compact known
330 as the Cosmetology Licensure Compact Commission. The Commission is an
331 instrumentality of the Compact Member States acting jointly and not an instrumentality
332 of any one State. The Commission shall come into existence on or after the effective date
333 of the Compact as set forth in Article 13.

334 B. Membership, Voting, and Meetings

- 335 1. Each Member State shall have and be limited to one (1) delegate selected by that
336 Member State's State Licensing Authority.
- 337 2. The delegate shall be an administrator of the State Licensing Authority of the
338 Member State or their designee.
- 339 3. The Commission shall by Rule or bylaw establish a term of office for delegates and
340 may by Rule or bylaw establish term limits.
- 341 4. The Commission may recommend removal or suspension of any delegate from
342 office.
- 343 5. A Member State's State Licensing Authority shall fill any vacancy of its delegate
344 occurring on the Commission within 60 days of the vacancy.
- 345 6. Each delegate shall be entitled to one vote on all matters that are voted on by the
346 Commission.

347 7. The Commission shall meet at least once during each calendar year. Additional
348 meetings may be held as set forth in the bylaws. The Commission may meet by
349 telecommunication, video conference or other similar electronic means.

350 C. The Commission shall have the following powers:

351 1. Establish the fiscal year of the Commission;

352 2. Establish code of conduct and conflict of interest policies;

353 3. Adopt Rules and bylaws;

354 4. Maintain its financial records in accordance with the bylaws;

355 5. Meet and take such actions as are consistent with the provisions of this Compact, the
356 Commission's Rules, and the bylaws;

357 6. Initiate and conclude legal proceedings or actions in the name of the Commission,
358 provided that the standing of any State Licensing Authority to sue or be sued under
359 applicable law shall not be affected;

360 7. Maintain and certify records and information provided to a Member State as the
361 authenticated business records of the Commission, and designate an agent to do so on
362 the Commission's behalf;

363 8. Purchase and maintain insurance and bonds;

364 9. Borrow, accept, or contract for services of personnel, including, but not limited to,
365 employees of a Member State;

366 10. Conduct an annual financial review;

367 11. Hire employees, elect or appoint officers, fix compensation, define duties, grant
368 such individuals appropriate authority to carry out the purposes of the Compact, and
369 establish the Commission's personnel policies and programs relating to conflicts of
370 interest, qualifications of personnel, and other related personnel matters;

371 12. As set forth in the Commission Rules, charge a fee to a Licensee for the grant of
372 a Multistate License and thereafter, as may be established by Commission Rule, charge
373 the Licensee a Multistate License renewal fee for each renewal period. Nothing herein

374 shall be construed to prevent a Home State from charging a Licensee a fee for a
375 Multistate License or renewals of a Multistate License, or a fee for the jurisprudence
376 requirement if the Member State imposes such a requirement for the grant of Multistate
377 License;

378 13. Assess and collect fees;

379 14. Accept any and all appropriate gifts, donations, grants of money, other sources of
380 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose
381 of the same; provided that at all times the Commission shall avoid any appearance of
382 impropriety or conflict of interest;

383 15. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or
384 mixed, or any undivided interest therein;

385 16. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
386 any property real, personal, or mixed;

387 17. Establish a budget and make expenditures;

388 18. Borrow money;

389 19. Appoint committees, including standing committees, composed of members, State
390 regulators, State legislators or their representatives, and consumer representatives, and
391 such other interested persons as may be designated in this Compact and the bylaws;

392 20. Provide and receive information from, and cooperate with, law enforcement
393 agencies;

394 21. Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the
395 Commission as provided in the Commission's bylaws;

396 22. Establish and elect an Executive Committee, including a chair and a vice chair;

397 23. Adopt and provide to the Participating States an annual report;

398 24. Determine whether a State's adopted language is materially different from the
399 model Compact language such that the State would not qualify for participation in the
400 Compact; and

401 25. Perform such other functions as may be necessary or appropriate to achieve the
402 purposes of this Compact.

403 D. The Executive Committee

404 1. The Executive Committee shall have the power to act on behalf of the Commission
405 according to the terms of this Compact. The powers, duties, and responsibilities of the
406 Executive Committee shall include:

407 a. Overseeing the day-to-day activities of the administration of the Compact
408 including compliance with the provisions of the Compact, the Commission's Rules
409 and bylaws, and other such duties as deemed necessary;

410 b. Recommending to the Commission changes to the Rules or bylaws, changes to this
411 Compact legislation, fees charged to Compact Member States, fees charged to
412 Licensees, and other fees;

413 c. Ensuring Compact administration services are appropriately provided, including
414 by contract;

415 d. Preparing and recommending the budget;

416 e. Maintaining financial records on behalf of the Commission;

417 f. Monitoring Compact compliance of Member States and providing compliance
418 reports to the Commission;

419 g. Establishing additional committees as necessary;

420 h. Exercise the powers and duties of the Commission during the interim between
421 Commission meetings, except for adopting or amending Rules, adopting or amending
422 bylaws, and exercising any other powers and duties expressly reserved to the
423 Commission by Rule or bylaw; and

424 i. Other duties as provided in the Rules or bylaws of the Commission.

425 2. The Executive Committee shall be composed of up to seven voting members:

- 426 a. The chair and vice chair of the Commission and any other members if the
427 Commission who serve on the Executive Committee shall be voting members of the
428 Executive Committee; and
- 429 b. Other than the chair and vice-chair, secretary and treasurer, the Commission shall
430 elect three voting members from the current membership of the Commission.
- 431 c. The Commission may elect ex-officio, nonvoting members from a recognized
432 national Cosmetology professional association as approved by the Commission. The
433 Commission's bylaws shall identify qualifying organizations and the manner of
434 appointment if the number of organizations seeking to appoint an ex officio member
435 exceeds the number of members specified in this Article.
- 436 3. The Commission may remove any member of the Executive Committee as provided
437 in the Commission's bylaws.
- 438 4. The Executive Committee shall meet at least annually.
- 439 a. Annual Executive Committee meetings, as well as any Executive Committee
440 meeting at which it does not take or intend to take formal action on a matter for which
441 a Commission vote would otherwise be required, shall be open to the public, except
442 that the Executive Committee may meet in a closed, non-public session of a public
443 meeting when dealing with any of the matters covered under Article 9.F.4.
- 444 b. The Executive Committee shall give five business days advance notice of its
445 public meetings, posted on its website and as determined to provide notice to persons
446 with an interest in the public matters the Executive Committee intends to address at
447 those meetings.
- 448 5. The Executive Committee may hold an emergency meeting when acting for the
449 Commission to:
- 450 a. Meet an imminent threat to public health, safety, or welfare;
451 b. Prevent a loss of Commission or Participating State funds; or
452 c. Protect public health and safety.

453 E. The Commission shall adopt and provide to the Member States an annual report.

454 F. Meetings of the Commission

455 1. All meetings of the Commission that are not closed pursuant to Article 9.F.4 shall
456 be open to the public. Notice of public meetings shall be posted on the Commission's
457 website at least thirty (30) days prior to the public meeting.

458 2. Notwithstanding Article 9.F.1, the Commission may convene an emergency public
459 meeting by providing at least twenty-four (24) hours prior notice on the Commission's
460 website, and any other means as provided in the Commission's Rules, for any of the
461 reasons it may dispense with notice of proposed rulemaking under Article 11.L. The
462 Commission's legal counsel shall certify that one of the reasons justifying an emergency
463 public meeting has been met.

464 3. Notice of all Commission meetings shall provide the time, date, and location of the
465 meeting, and if the meeting is to be held or accessible via telecommunication, video
466 conference, or other electronic means, the notice shall include the mechanism for access
467 to the meeting.

468 4. The Commission may convene in a closed, non-public meeting for the Commission
469 to discuss:

470 a. Non-compliance of a Member State with its obligations under the Compact;

471 b. The employment, compensation, discipline or other matters, practices or
472 procedures related to specific employees or other matters related to the Commission's
473 internal personnel practices and procedures;

474 c. Current or threatened discipline of a Licensee by the Commission or by a Member
475 State's Licensing Authority;

476 d. Current, threatened, or reasonably anticipated litigation;

477 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
478 estate;

479 f. Accusing any person of a crime or formally censuring any person;

480 g. Trade secrets or commercial or financial information that is privileged or
481 confidential;

482 h. Information of a personal nature where disclosure would constitute a clearly
483 unwarranted invasion of personal privacy;

484 i. Investigative records compiled for law enforcement purposes;

485 j. Information related to any investigative reports prepared by or on behalf of or for
486 use of the Commission or other committee charged with responsibility of
487 investigation or determination of compliance issues pursuant to the Compact;

488 k. Legal Advice

489 l. Matters specifically exempted from disclosure to the public by federal or Member
490 State law; or

491 m. Other matters as promulgated by the Commission by Rule.

492 5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that
493 the meeting will be closed and reference each relevant exempting provision, and such
494 reference shall be recorded in the minutes.

495 6. The Commission shall keep minutes that fully and clearly describe all matters
496 discussed in a meeting and shall provide a full and accurate summary of actions taken,
497 and the reasons therefore, including a description of the views expressed. All
498 documents considered in connection with an action shall be identified in such minutes.
499 All minutes and documents of a closed meeting shall remain under seal, subject to
500 release only by a majority vote of the Commission or order of a court of competent
501 jurisdiction.

502 G. Financing of the Commission

503 1. The Commission shall pay, or provide for the payment of, the reasonable expenses
504 of its establishment, organization, and ongoing activities.

505 2. The Commission may accept any and all appropriate sources of revenue, donations,
506 and grants of money, equipment, supplies, materials, and services.

507 3. The Commission may levy on and collect an annual assessment from each Member
508 State and impose fees on Licensees of Member States to whom it grants a Multistate
509 License to cover the cost of the operations and activities of the Commission and its
510 staff, which must be in a total amount sufficient to cover its annual budget as approved
511 each year for which revenue is not provided by other sources. The aggregate annual
512 assessment amount for Member States shall be allocated based upon a formula that the
513 Commission shall promulgate by Rule.

514 4. The Commission shall not incur obligations of any kind prior to securing the funds
515 adequate to meet the same; nor shall the Commission pledge the credit of any Member
516 States, except by and with the authority of the Member State.

517 5. The Commission shall keep accurate accounts of all receipts and disbursements.
518 The receipts and disbursements of the Commission shall be subject to the financial
519 review and accounting procedures established under its bylaws. All receipts and
520 disbursements of funds handled by the Commission shall be subject to an annual
521 financial review by a certified or licensed public accountant, and the report of the
522 financial review shall be included in and become part of the annual report of the
523 Commission.

524 H. Qualified Immunity, Defense, and Indemnification

525 1. The members, officers, executive director, employees and representatives of the
526 Commission shall be immune from suit and liability, both personally and in their
527 official capacity, for any claim for damage to or loss of property or personal injury or
528 other civil liability caused by or arising out of any actual or alleged act, error, or
529 omission that occurred, or that the person against whom the claim is made had a
530 reasonable basis for believing occurred within the scope of Commission employment,
531 duties or responsibilities; provided that nothing in this paragraph shall be construed to
532 protect any such person from suit or liability for any damage, loss, injury, or liability
533 caused by the intentional or willful or wanton misconduct of that person. The

534 procurement of insurance of any type by the Commission shall not in any way
535 compromise or limit the immunity granted hereunder.

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

546 3. The Commission shall indemnify and hold harmless any member, officer, executive
547 director, employee, and representative of the Commission for the amount of any
548 settlement or judgment obtained against that person arising out of any actual or alleged
549 act, error, or omission that occurred within the scope of Commission employment,
550 duties, or responsibilities, or that such person had a reasonable basis for believing
551 occurred within the scope of Commission employment, duties, or responsibilities,
552 provided that the actual or alleged act, error, or omission did not result from the
553 intentional or willful or wanton misconduct of that person.

554 4. Nothing herein shall be construed as a limitation on the liability of any Licensee for
555 professional malpractice or misconduct, which shall be governed solely by any other
556 applicable State laws.

557 5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a
558 Member State's State action immunity or State action affirmative defense with respect
559 to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal
560 antitrust or anticompetitive law or regulation.

561 6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity
562 by the Member States or by the Commission.

563 ARTICLE 10- DATA SYSTEM

564 A. The Commission shall provide for the development, maintenance, operation, and
565 utilization of a coordinated database and reporting system.

566 B. The Commission shall assign each applicant for a Multistate License a unique
567 identifier, as determined by the Rules of the Commission.

568 C. Notwithstanding any other provision of State law to the contrary, a Member State
569 shall submit a uniform data set to the Data System on all individuals to whom this
570 Compact is applicable as required by the Rules of the Commission, including:

571 1. Identifying information;

572 2. Licensure data;

573 3. Adverse Actions against a license and information related thereto;

574 4. Non-confidential information related to Alternative Program participation, the
575 beginning and ending dates of such participation, and other information related to such
576 participation;

577 5. Any denial of application for licensure, and the reason(s) for such denial (excluding
578 the reporting of any criminal history record information where prohibited by law);

579 6. The existence of Investigative Information;

580 7. The existence of Current Significant Investigative Information; and

581 8. Other information that may facilitate the administration of this Compact or the
582 protection of the public, as determined by the Rules of the Commission.

583 D. The records and information provided to a Member State pursuant to this Compact
584 or through the Data System, when certified by the Commission or an agent thereof, shall
585 constitute the authenticated business records of the Commission, and shall be entitled to

586 any associated hearsay exception in any relevant judicial, quasi-judicial or administrative
587 proceedings in a Member State.

588 E. The existence of Current Significant Investigative Information and the existence of
589 Investigative Information pertaining to a Licensee in any Member State will only be
590 available to other Member States.

591 F. It is the responsibility of the Member States to monitor the database to determine
592 whether Adverse Action has been taken against such a Licensee or License applicant.
593 Adverse Action information pertaining to a Licensee or License applicant in any Member
594 State will be available to any other Member State.

595 G. Member States contributing information to the Data System may designate
596 information that may not be shared with the public without the express permission of the
597 contributing State.

598 H. Any information submitted to the Data System that is subsequently expunged
599 pursuant to federal law or the laws of the Member State contributing the information shall
600 be removed from the Data System.

601 ARTICLE 11- RULEMAKING

602 A. The Commission shall promulgate reasonable Rules in order to effectively and
603 efficiently implement and administer the purposes and provisions of the Compact. A
604 Rule shall be invalid and have no force or effect only if a court of competent jurisdiction
605 holds that the Rule is invalid because the Commission exercised its rulemaking authority
606 in a manner that is beyond the scope and purposes of the Compact, or the powers granted
607 hereunder, or based upon another applicable standard of review.

608 B. The Rules of the Commission shall have the force of law in each Member State,
609 provided however that where the Rules of the Commission conflict with the laws of the
610 Member State that establish the Member State's scope of practice laws governing the

611 Practice of Cosmetology as held by a court of competent jurisdiction, the Rules of the
612 Commission shall be ineffective in that State to the extent of the conflict.

613 C. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth
614 in this Article and the Rules adopted thereunder. Rules shall become binding as of the
615 date specified by the Commission for each Rule.

616 D. If a majority of the legislatures of the Member States rejects a Rule or portion of a
617 Rule, by enactment of a statute or resolution in the same manner used to adopt the
618 Compact within four (4) years of the date of adoption of the Rule, then such Rule shall
619 have no further force and effect in any Member State or to any State applying to
620 participate in the Compact.

621 E. Rules shall be adopted at a regular or special meeting of the Commission.

622 F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and
623 allow persons to provide oral and written comments, data, facts, opinions, and arguments.

624 G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days
625 in advance of the meeting at which the Commission will hold a public hearing on the
626 proposed Rule, the Commission shall provide a notice of proposed rulemaking:

627 1. On the website of the Commission or other publicly accessible platform;

628 2. To persons who have requested notice of the Commission's notices of proposed
629 rulemaking; and

630 3. In such other way(s) as the Commission may by Rule specify.

631 H. The notice of proposed rulemaking shall include:

632 1. The time, date, and location of the public hearing at which the Commission will hear
633 public comments on the proposed Rule and, if different, the time, date, and location of
634 the meeting where the Commission will consider and vote on the proposed Rule;

635 2. If the hearing is held via telecommunication, video conference, or other electronic
636 means, the Commission shall include the mechanism for access to the hearing in the
637 notice of proposed rulemaking;

- 638 3. The text of the proposed Rule and the reason therefor;
639 4. A request for comments on the proposed Rule from any interested person; and
640 5. The manner in which interested persons may submit written comments.

641 I. All hearings will be recorded. A copy of the recording and all written comments and
642 documents received by the Commission in response to the proposed Rule shall be
643 available to the public.

644 J. Nothing in this Article shall be construed as requiring a separate hearing on each Rule.
645 Rules may be grouped for the convenience of the Commission at hearings required by
646 this Article.

647 K. The Commission shall, by majority vote of all members, take final action on the
648 proposed Rule based on the rulemaking record and the full text of the Rule.

649 1. The Commission may adopt changes to the proposed Rule provided the changes do
650 not enlarge the original purpose of the proposed Rule.

651 2. The Commission shall provide an explanation of the reasons for substantive changes
652 made to the proposed Rule as well as reasons for substantive changes not made that
653 were recommended by commenters.

654 3. The Commission shall determine a reasonable effective date for the Rule. Except
655 for an emergency as provided in Article 11.L, the effective date of the Rule shall be no
656 sooner than forty-five (45) days after the Commission issuing the notice that it adopted
657 or amended the Rule.

658 L. Upon determination that an emergency exists, the Commission may consider and
659 adopt an emergency Rule with five (5) days' notice, with opportunity to comment,
660 provided that the usual rulemaking procedures provided in the Compact and in this
661 Article shall be retroactively applied to the Rule as soon as reasonably possible, in no
662 event later than ninety (90) days after the effective date of the Rule. For the purposes of
663 this provision, an emergency Rule is one that must be adopted immediately to:

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

- 665 2. Prevent a loss of Commission or Member State funds;
666 3. Meet a deadline for the promulgation of a Rule that is established by federal law or
667 rule; or
668 4. Protect public health and safety.

669 M. The Commission or an authorized committee of the Commission may direct revisions
670 to a previously adopted Rule for purposes of correcting typographical errors, errors in
671 format, errors in consistency, or grammatical errors. Public notice of any revisions shall
672 be posted on the website of the Commission. The revision shall be subject to challenge
673 by any person for a period of thirty (30) days after posting. The revision may be
674 challenged only on grounds that the revision results in a material change to a Rule. A
675 challenge shall be made in writing and delivered to the Commission prior to the end of
676 the notice period. If no challenge is made, the revision will take effect without further
677 action. If the revision is challenged, the revision may not take effect without the approval
678 of the Commission.

679 N. No Member State's rulemaking requirements shall apply under this Compact.

680 ARTICLE 12- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

681 A. Oversight

682 1. The executive and judicial branches of State government in each Member State shall
683 enforce this Compact and take all actions necessary and appropriate to implement the
684 Compact.

685 2. Venue is proper and judicial proceedings by or against the Commission shall be
686 brought solely and exclusively in a court of competent jurisdiction where the principal
687 office of the Commission is located. The Commission may waive venue and
688 jurisdictional defenses to the extent it adopts or consents to participate in alternative
689 dispute resolution proceedings. Nothing herein shall affect or limit the selection or

690 propriety of venue in any action against a Licensee for professional malpractice,
691 misconduct or any such similar matter.

692 3. The Commission shall be entitled to receive service of process in any proceeding
693 regarding the enforcement or interpretation of the Compact and shall have standing to
694 intervene in such a proceeding for all purposes. Failure to provide the Commission
695 service of process shall render a judgment or order void as to the Commission, this
696 Compact, or promulgated Rules.

697 B. Default, Technical Assistance, and Termination

698 1. If the Commission determines that a Member State has defaulted in the performance
699 of its obligations or responsibilities under this Compact or the promulgated Rules, the
700 Commission shall provide written notice to the defaulting State. The notice of default
701 shall describe the default, the proposed means of curing the default, and any other
702 action that the Commission may take, and shall offer training and specific technical
703 assistance regarding the default.

704 2. The Commission shall provide a copy of the notice of default to the other Member
705 States.

706 3. If a State in default fails to cure the default, the defaulting State may be terminated
707 from the Compact upon an affirmative vote of a majority of the delegates of the
708 Member States, and all rights, privileges and benefits conferred on that State by this
709 Compact may be terminated on the effective date of termination. A cure of the default
710 does not relieve the offending State of obligations or liabilities incurred during the
711 period of default.

712 4. Termination of membership in the Compact shall be imposed only after all other
713 means of securing compliance have been exhausted. Notice of intent to suspend or
714 terminate shall be given by the Commission to the governor, the majority and minority
715 leaders of the defaulting State's legislature, the defaulting State's State Licensing
716 Authority and each of the Member States' State Licensing Authority.

717 5. A State that has been terminated is responsible for all assessments, obligations, and
718 liabilities incurred through the effective date of termination, including obligations that
719 extend beyond the effective date of termination.

720 6. Upon the termination of a State's membership from this Compact, that State shall
721 immediately provide notice to all Licensees who hold a Multistate License within that
722 State of such termination. The terminated State shall continue to recognize all licenses
723 granted pursuant to this Compact for a minimum of one hundred eighty (180) days after
724 the date of said notice of termination.

725 7. The Commission shall not bear any costs related to a State that is found to be in
726 default or that has been terminated from the Compact, unless agreed upon in writing
727 between the Commission and the defaulting State.

728 8. The defaulting State may appeal the action of the Commission by petitioning the
729 U.S. District Court for the District of Columbia or the federal district where the
730 Commission has its principal offices. The prevailing party shall be awarded all costs
731 of such litigation, including reasonable attorney's fees.

732 C. Dispute Resolution

733 1. Upon request by a Member State, the Commission shall attempt to resolve disputes
734 related to the Compact that arise among Member States and between Member and
735 nonMember States.

736 2. The Commission shall promulgate a Rule providing for both mediation and binding
737 dispute resolution for disputes as appropriate.

738 D. Enforcement

739 1. The Commission, in the reasonable exercise of its discretion, shall enforce the
740 provisions of this Compact and the Commission's Rules.

741 2. By majority vote as provided by Commission Rule, the Commission may initiate
742 legal action against a Member State in default in the United States District Court for the
743 District of Columbia or the federal district where the Commission has its principal

744 offices to enforce compliance with the provisions of the Compact and its promulgated
745 Rules. The relief sought may include both injunctive relief and damages. In the event
746 judicial enforcement is necessary, the prevailing party shall be awarded all costs of such
747 litigation, including reasonable attorney's fees. The remedies herein shall not be the
748 exclusive remedies of the Commission. The Commission may pursue any other
749 remedies available under federal or the defaulting Member State's law.

750 3. A Member State may initiate legal action against the Commission in the U.S.
751 District Court for the District of Columbia or the federal district where the Commission
752 has its principal offices to enforce compliance with the provisions of the Compact and
753 its promulgated Rules. The relief sought may include both injunctive relief and
754 damages. In the event judicial enforcement is necessary, the prevailing party shall be
755 awarded all costs of such litigation, including reasonable attorney's fees.

756 4. No individual or entity other than a Member State may enforce this Compact against
757 the Commission.

758 ARTICLE 13- EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

759 A. The Compact shall come into effect on the date on which the Compact statute is
760 enacted into law in the seventh Member State.

761 1. On or after the effective date of the Compact, the Commission shall convene and
762 review the enactment of each of the Charter Member States to determine if the statute
763 enacted by each such Charter Member State is materially different than the model
764 Compact statute.

765 a. A Charter Member State whose enactment is found to be materially different from
766 the model Compact statute shall be entitled to the default process set forth in Article
767 12.

768 b. If any Member State is later found to be in default, or is terminated or withdraws
769 from the Compact, the Commission shall remain in existence and the Compact shall
770 remain in effect even if the number of Member States should be less than seven (7).
771 2. Member States enacting the Compact subsequent to the Charter Member States shall
772 be subject to the process set forth in Article 9.C.24 to determine if their enactments are
773 materially different from the model Compact statute and whether they qualify for
774 participation in the Compact.
775 3. All actions taken for the benefit of the Commission or in furtherance of the purposes
776 of the administration of the Compact prior to the effective date of the Compact or the
777 Commission coming into existence shall be considered to be actions of the Commission
778 unless specifically repudiated by the Commission.
779 4. Any State that joins the Compact shall be subject to the Commission's Rules and
780 bylaws as they exist on the date on which the Compact becomes law in that State. Any
781 Rule that has been previously adopted by the Commission shall have the full force and
782 effect of law on the day the Compact becomes law in that State.
783 B. Any Member State may withdraw from this Compact by enacting a statute repealing
784 that State's enactment of the Compact.
785 1. A Member State's withdrawal shall not take effect until one hundred eighty (180)
786 days after enactment of the repealing statute.
787 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's
788 State Licensing Authority to comply with the investigative and Adverse Action
789 reporting requirements of this Compact prior to the effective date of withdrawal.
790 3. Upon the enactment of a statute withdrawing from this Compact, a State shall
791 immediately provide notice of such withdrawal to all Licensees within that State.
792 Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing
793 State shall continue to recognize all licenses granted pursuant to this Compact for a
794 minimum of 180 days after the date of such notice of withdrawal.

795 C. Nothing contained in this Compact shall be construed to invalidate or prevent any
796 licensure agreement or other cooperative arrangement between a Member State and a
797 non-Member State that does not conflict with the provisions of this Compact.

798 D. This Compact may be amended by the Member States. No amendment to this
799 Compact shall become effective and binding upon any Member State until it is enacted
800 into the laws of all Member States.

801 ARTICLE 14- CONSTRUCTION AND SEVERABILITY

802 A. This Compact and the Commission's rulemaking authority shall be liberally construed
803 so as to effectuate the purposes, and the implementation and administration of the
804 Compact. Provisions of the Compact expressly authorizing or requiring the promulgation
805 of Rules shall not be construed to limit the Commission's rulemaking authority solely for
806 those purposes.

807 B. The provisions of this Compact shall be severable and if any phrase, clause, sentence
808 or provision of this Compact is held by a court of competent jurisdiction to be contrary
809 to the constitution of any Member State, a State seeking participation in the Compact, or
810 of the United States, or the applicability thereof to any government, agency, person or
811 circumstance is held to be unconstitutional by a court of competent jurisdiction, the
812 validity of the remainder of this Compact and the applicability thereof to any other
813 government, agency, person or circumstance shall not be affected thereby.

814 C. Notwithstanding Article 14.B, the Commission may deny a State's participation in the
815 Compact or, in accordance with the requirements of Article 12, terminate a Member
816 State's participation in the Compact, if it determines that a constitutional requirement of
817 a Member State is a material departure from the Compact. Otherwise, if this Compact
818 shall be held to be contrary to the constitution of any Member State, the Compact shall
819 remain in full force and effect as to the remaining Member States and in full force and
820 effect as to the Member State affected as to all severable matters.

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ARTICLE 15- CONSISTENT EFFECT AND CONFLICT

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WITH OTHER STATE LAWS

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A. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member

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State that is not inconsistent with the Compact.

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B. Any laws, statutes, regulations, or other legal requirements in a Member State in

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conflict with the Compact are superseded to the extent of the conflict.

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C. All permissible agreements between the Commission and the Member States are

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binding in accordance with their terms."

829

SECTION 4.

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All laws and parts of laws in conflict with this Act are repealed.