

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

FILED SENATE
Mar 30, 2021
S.B. 407
PRINCIPAL CLERK

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SENATE BILL DRS35076-MG-19

Short Title: Compact to Award Prizes for Curing Diseases. (Public)

Sponsors: Senators Burgin, Krawiec, and Perry (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT ENACTING A COMPACT TO AWARD PRIZES FOR CURING DISEASES.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 23B.

7 "Compact to Award Prizes for the Cure of Diseases.

8 **"§ 90-326. Definitions.**

9 As used in this Article, the following definitions have the following meanings:

- 10 (1) Compact. – The Solemn Covenant of the States to Award Prizes for Curing
11 Diseases enacted in this Article.
12 (2) Compacting state. – Either of the following:
13 a. Any state that has enacted the compact and has not withdrawn or been
14 suspended pursuant to G.S. 90-326.14.
15 b. The federal government in accordance with the Commission's bylaws.
16 (3) Non-compacting state. – Any state or the federal government, if it is not at the
17 time a compacting state.
18 (4) Public health expenses. – The amount of all costs paid by taxpayers in a
19 specified geographic area relating to a particular disease.
20 (5) State. – Any state, district, or territory of the United States of America.

21 **"§ 90-326.1. Establishment of the Commission; membership.**

- 22 (1) Upon the enactment of the compact by six states, the compacting states shall
23 establish the Solemn Covenant of States Commission.
24 (2) The Commission is a body corporate and politic and an instrumentality of each
25 of the compacting states and is solely responsible for its liabilities, except as
26 otherwise specifically provided in the compact.
27 (3) Each compacting state shall be represented by one member as selected by the
28 compacting state. Each compacting state shall determine its member's
29 qualifications and period of service and shall be responsible for any action to
30 remove or suspend its member or to fill the member's position if it becomes
31 vacant. Nothing in the compact shall be construed to affect a compacting
32 state's authority regarding the qualification, selection, or service of its own
33 member.

34 **"§ 90-326.2. Powers of the Commission.**



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- 1 (1) To adopt bylaws and rules pursuant to G.S. 90-326.4 and G.S. 90-326.5,
2 which shall have the force and effect of law and shall be binding in the
3 compacting states to the extent and in the manner provided in the compact.
- 4 (2) To receive and review in an expeditious manner treatments and therapeutic
5 protocols for the cure of disease submitted to the Commission and to award
6 prizes for submissions that meet the Commission's standards for a successful
7 cure treatment or therapeutic protocol.
- 8 (3) To make widely available a cure treatment or therapeutic protocol upon a prize
9 winner claiming a prize and transferring any intellectual property necessary
10 for the manufacture and distribution of the cure in accordance with
11 G.S. 90-326.5(a)(4)g.1., including by arranging or contracting for the
12 manufacturing, production, or provision of any drug, serum, or other
13 substance, device, or process, provided that the Commission does not market
14 the cure or conduct any other activity regarding the cure not specifically
15 authorized in the compact.
- 16 (4) To establish a selling price for the cure, which shall be not more than the
17 expenses for the cure's manufacturing, distribution, licensing, and any other
18 necessary governmental requirements for compacting states, or those
19 expenses plus any royalty fees, for non-compacting states; the price shall not
20 include the expenses of any other activities.
- 21 (5) In non-compacting states and foreign countries, to establish and collect royalty
22 fees imposed on manufacturers, producers, and providers of any drug, serum,
23 or other substance, device, or process used for a cure treatment or therapeutic
24 protocol, for which a prize is awarded; royalty fees may be added to the sales
25 price of the cure pursuant to subdivision (4) of this section; provided that the
26 royalty fees shall cumulatively be not more than the estimated five-year
27 savings in public health expenses for that state or country, as calculated by
28 actuaries employed or contracted by the Commission.
- 29 (6) To do the following regarding the collected royalty fees:
- 30 a. Pay or reimburse expenses related to the payment of a prize, which
31 shall include employing or contracting actuaries to calculate annual
32 taxpayer savings amounts in compacting states in accordance with
33 G.S. 90-326.5(a)(4)g.3., and payment of interest and other expenses
34 related to a loan obtained in accordance with G.S. 90-326.5(a)(4)g.6.
- 35 b. Annually disburse any amounts remaining after making payments or
36 reimbursements under sub-subdivision a. of this subdivision as
37 refunds to compacting states based on the percent of the state's prize
38 obligation in relation to the total obligation amount of all compacting
39 states.
- 40 (7) To bring and prosecute legal proceedings or actions in its name as the
41 Commission.
- 42 (8) To issue subpoenas requiring the attendance and testimony of witnesses and
43 the production of evidence.
- 44 (9) To establish and maintain offices.
- 45 (10) To borrow, accept, or contract for personnel services, including personnel
46 services from employees of a compacting state.
- 47 (11) To hire employees, professionals, or specialists, and elect or appoint officers,
48 and to fix their compensation, define their duties, and give them appropriate
49 authority to carry out the purposes of the compact, and determine their
50 qualifications; and to establish the Commission's personnel policies and

1 programs relating to, among other things, conflicts of interest, rates of
2 compensation, and qualifications of personnel.

3 (12) To accept any and all appropriate donations and grants of money, equipment,
4 supplies, materials, and services, and to receive, utilize, and dispose of the
5 same; provided that at all times the Commission shall strive to avoid any
6 appearance of impropriety.

7 (13) To lease, purchase, or accept appropriate gifts or donations of, or otherwise to
8 own, hold, improve, or use, any property, real, personal, or mixed; provided,
9 that at all times the Commission shall strive to avoid any appearance of
10 impropriety.

11 (14) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
12 dispose of any property, real, personal, or mixed.

13 (15) To monitor compacting states for compliance with the Commission's bylaws
14 and rules.

15 (16) To enforce compliance by compacting states with the Commission's bylaws
16 and rules.

17 (17) To provide for dispute resolution among compacting states or between the
18 Commission and those who submit treatments and therapeutic protocols for
19 the cure of disease for consideration.

20 (18) To establish a budget and make expenditures.

21 (19) To borrow money.

22 (20) To appoint committees, including management, legislative, and advisory
23 committees comprised of members, state legislators or their representatives,
24 medical professionals, and such other interested persons as may be designated
25 by the Commission.

26 (21) To establish annual membership dues for compacting states, which shall be
27 used for daily expenses of the Commission and not for interest or prize
28 payments.

29 (22) To adopt and use a corporate seal.

30 (23) To perform such other functions as may be necessary or appropriate to achieve
31 the purposes of this compact.

32 **§ 90-326.3. Meetings and voting.**

33 (1) The Commission shall meet and take such actions as are consistent with the
34 compact, bylaws, and rules.

35 (2) A majority of the members of the Commission shall constitute a quorum
36 necessary in order to conduct business or take actions at meetings of the
37 Commission.

38 (3) Each member of the Commission shall have the right and power to cast one
39 vote regarding matters determined or actions to be taken by the Commission.
40 Each member shall have the right and power to participate in the business and
41 affairs of the Commission.

42 (4) A member shall vote in person or by such other means as provided in the
43 Commission's bylaws. The Commission's bylaws may provide for members'
44 participation in meetings by telephone or other means of communication.

45 (5) The Commission shall meet at least once during each calendar year.
46 Additional meetings shall be held as set forth in the Commission's bylaws.

47 (6) No decision of the Commission with respect to the approval of an award for a
48 treatment or therapeutic process for the cure of a disease shall be effective
49 unless two-thirds of all the members of the Commission vote in favor thereof.

50 (7) Guidelines and voting requirements for all other decisions of the Commission
51 shall be established in the Commission's bylaws.

1 **"§ 90-326.4. Bylaws.**

2 The Commission shall, by a majority vote of all the members of the Commission, prescribe
3 bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes and
4 exercise the powers of the compact, including, but not limited to:

- 5 (1) Establishing the fiscal year of the Commission.
6 (2) Providing reasonable procedures for appointing and electing members, as well
7 as holding meetings, of the management committee.
8 (3) Providing reasonable standards and procedures for the following:
9 a. For the establishment and meetings of other committees.
10 b. Governing any general or specific delegation of any authority or
11 function of the Commission.
12 c. Voting guidelines and procedures for Commission decisions.
13 (4) Providing reasonable procedures for calling and conducting meetings of the
14 Commission that shall consist of requiring a quorum to be present, ensuring
15 reasonable advance notice of each such meeting, and providing for the right
16 of citizens to attend each such meeting with enumerated exceptions designed
17 to protect the public's interest and the privacy of individuals.
18 (5) Providing a list of matters about which the Commission may go into executive
19 session and requiring a majority of all members of the Commission to vote to
20 enter into such session. As soon as practicable, the Commission shall make
21 public:
22 a. A copy of the vote to go into executive session, revealing the vote of
23 each member with no proxy votes allowed.
24 b. The matter requiring executive session, without identifying the actual
25 issues or individuals involved.
26 (6) Establishing the titles, duties, authority, and reasonable procedures for the
27 election of the officers of the Commission.
28 (7) Providing reasonable standards and procedures for the establishment of the
29 personnel policies and programs of the Commission. Notwithstanding any
30 civil service or other similar laws of any compacting state, the Commission's
31 bylaws shall exclusively govern the personnel policies and programs of the
32 Commission.
33 (8) Allowing a mechanism for the following:
34 a. The federal government to join as a compacting state.
35 b. Foreign countries or subdivisions of those countries to join as liaison
36 members by adopting the compact; provided that adopting countries
37 or subdivisions shall not have voting power or the power to bind the
38 Commission in any way.
39 (9) Adopting a code of ethics to address permissible and prohibited activities of
40 members and employees.
41 (10) Providing for the maintenance of the Commission's books and records.
42 (11) Governing the acceptance of and accounting for donations, annual member
43 dues, and other sources of funding and establishing the proportion of these
44 funds to be allocated to prize amounts for treatments and therapeutic protocols
45 that cure disease.
46 (12) Governing any fundraising efforts in which the Commission wishes to engage.
47 (13) Providing a mechanism for winding up the operations of the Commission and
48 the equitable disposition of any surplus funds that may exist after the
49 termination of the compact after the payment and reserving of all its debts and
50 obligations.

51 **"§ 90-326.5. Rules.**

1 (a) The Commission shall adopt rules to do the following:

2 (1) Effectively and efficiently achieve the purposes of this compact.

3 (2) Govern the methods, processes, and any other aspect of the research, creation,
4 and testing of a treatment or therapeutic protocol for each disease for which a
5 prize may be awarded.

6 (3) Establishing the criteria for defining and classifying the diseases for which
7 prizes shall be awarded. The Commission may define and classify subsets of
8 diseases, for example, tubular carcinoma of the breast. For purposes of
9 sub-subdivisions a. and c. of subdivision (4) of this subsection, a subset of a
10 disease shall be considered one disease. The Commission may consult the
11 most recent edition of the International Classification of Diseases as published
12 by the World Health Organization or other definitions agreed to by a
13 two-thirds vote of the Commission.

14 (4) Regarding prizes for curing diseases that establish the following:

15 a. At least 10 major diseases for which to create prizes, which shall be
16 determined based on the following factors:

17 1. The severity of the disease to a human individual's overall
18 health and well-being.

19 2. The survival rate or severity of impact of the disease.

20 3. The public health expenses and treatment expenses for the
21 disease.

22 b. The criteria a treatment or therapeutic protocol must meet in order to
23 be considered a cure for any of the diseases for which a prize may be
24 awarded, which shall include the following requirements:

25 1. It must be approved by the federal Food and Drug
26 Administration or have otherwise obtained legal status for the
27 compact to immediately contract to manufacture and distribute
28 in the United States.

29 2. Except as provided in subsection (b) of this section, it must
30 yield a significant increase in survival with respect to the
31 diseases if early death is the usual outcome.

32 3. It requires less than one year of the treatment or protocol to
33 completely cure the disease.

34 c. The procedure for determining the diseases for which to award prizes,
35 which includes the option to award prizes for more than 10 diseases
36 that meet the above criteria, if agreed to by two-thirds vote of the
37 Commission, and a requirement to update the list every three years.

38 d. The submission and evaluation procedures and guidelines, including
39 filing and review procedures, a requirement that the person or entity
40 submitting the cure bears the burden of proof in demonstrating that the
41 treatment or therapeutic protocol meets the above criteria, and
42 limitations preventing public access to treatment or protocol
43 submissions.

44 e. The estimated five-year public health savings that would result from a
45 cure, which shall be equal to the five-year public health expenses for
46 each disease in each compacting state, and a procedure to update these
47 expenses every three years in conjunction with the requirements in
48 sub-subdivision c. of this subdivision. The estimated five-year public
49 health savings amount shall be calculated, estimated, and publicized
50 every three years by actuaries employed or contracted by the
51 Commission.

- 1 f. The prize amount with respect to cures for each disease, which shall
2 be equal to the most recent estimated total five-year savings in public
3 health expenses for the disease as calculated in sub-subdivision e. of
4 this subdivision in all of the compacting states; amounts donated by
5 charities, individuals, and any other entities intended for the prize; and
6 any other factors that the Commission deems appropriate.
- 7 g. The prize distribution procedures and guidelines, which shall include
8 the following requirements:
- 9 1. Upon acceptance of a cure, the prize winner shall transfer to
10 the Commission the patent and all related intellectual property
11 for the manufacture and distribution of the treatment or
12 therapeutic protocol in exchange for the prize, except in the
13 case that the prize money is considered by the Commission to
14 be too low, and that a prize will be awarded only to the first
15 person or entity that submits a successful cure for a disease for
16 which a prize may be awarded.
- 17 2. Donation amounts intended for the prize shall be kept in a
18 separate, interest-bearing account maintained by the
19 Commission. This account shall be the only account in which
20 prize money is kept.
- 21 3. Each compacting state shall have the responsibility to pay
22 annually the compacting state's actual one-year savings in
23 public health expenses for the particular disease for which a
24 cure has been accepted. The compacting state shall make such
25 an annual payment until it has fulfilled its prize responsibility
26 as established in sub-subdivision f. of this subdivision. Each
27 compacting state's payment responsibility begins one year after
28 the date the cure becomes widely available. The Commission
29 shall employ or contract with actuaries to calculate each state's
30 actual one-year savings in public health expenses at the end of
31 each year to determine each state's responsibility for the
32 succeeding year.
- 33 4. Compacting states may meet prize responsibilities by any
34 method including the issuance of bonds or other obligations,
35 with the principal and interest of those bonds or obligations to
36 be repaid only from revenue derived from estimated public
37 health expense savings from a cure to a disease. If the
38 compacting state does not make such revenue available to
39 repay some or all of the revenue bonds or obligations issued,
40 the owners or holders of those bonds or obligations have no
41 right to have excises or taxes levied to pay the principal or
42 interest on them. The revenue bonds and obligations are not a
43 debt of the issuing compacting state.
- 44 5. A compacting state may issue bonds or other debt that are
45 general obligations, under which the full faith and credit,
46 revenue, and taxing power of the state is pledged to pay the
47 principal and interest under those obligations, only if
48 authorized by the compacting state's constitution or, if
49 constitutional authorization is not required, by other law of the
50 compacting state.

1 6. Upon acceptance of a cure, the Commission shall obtain a loan
2 from a financial institution in an amount equal to the most
3 recently calculated total estimated five-year public health
4 expenses for the disease in all compacting states, in accordance
5 with sub-subdivision (f) of this subdivision. The Commission
6 reserves the right to continuously evaluate the cure in the
7 interim and rescind a prize offer if the Commission finds that
8 the cure no longer meets the Commission's criteria.

9 (5) The Commission also shall adopt rules to do the following:

10 a. Establish the following regarding Commission records:

11 1. Conditions and procedures for public inspection and copying
12 of its information and official records, except such information
13 and records involving the privacy of individuals or that would
14 otherwise violate privacy laws under federal law and the laws
15 of the compacting states.

16 2. Procedures for sharing with federal and state agencies,
17 including law enforcement agencies, records and information
18 otherwise exempt from disclosure.

19 3. Guidelines for entering into agreements with federal and state
20 agencies to receive or exchange information or records subject
21 to nondisclosure and confidentiality provisions.

22 b. Provide a process for Commission review of submitted treatments and
23 therapeutic protocols for curing diseases that includes the following:

24 1. An opportunity for an appeal, not later than 30 days after a
25 rejection of a treatment or protocol for prize consideration, to
26 a review panel established under the Commission's dispute
27 resolution process.

28 2. Commission monitoring and review of treatment and protocol
29 effectiveness consistent with the cure criteria established by
30 the Commission for the particular disease.

31 3. Commission reconsideration, modification, or withdrawal of
32 approval of a treatment or protocol for prize consideration for
33 failure to continue to meet the cure criteria established by the
34 Commission for the particular disease.

35 c. Establish a dispute resolution process to resolve disputes or other
36 issues under the compact that may arise between two or more
37 compacting states or between the Commission and individuals or
38 entities who submit treatments and therapeutic protocols to cure
39 diseases, which process shall provide for:

40 1. Administrative review by a review panel appointed by the
41 Commission.

42 2. Judicial review of decisions issued after an administrative
43 review.

44 3. Qualifications to be appointed to a panel, due process
45 requirements, including notice and hearing procedures, and
46 any other procedure, requirement, or standard necessary to
47 provide adequate dispute resolution.

48 d. Establish and impose annual member dues on compacting states,
49 which shall be calculated based on the percentage of each compacting
50 state's population in relation to the population of all the compacting
51 states.

1 **(b)** The Commission may award a prize for a treatment or therapeutic protocol that yields
2 a survival rate that is less than what is established in the cure criteria through at least five years
3 after the treatment or protocol has ended. In that case, the prize amount awarded for that treatment
4 or therapeutic protocol shall be reduced from the prize amount originally determined by the
5 Commission for a cure for that disease. The reduction shall be in proportion to the survival rate
6 yielded by that treatment or protocol as compared to the survival rate established in the cure
7 criteria.

8 **(c)** Recognizing that the goal of the compact is to pool the potential savings of as many
9 states and countries as possible to generate sufficient financial incentive to develop a cure for
10 many of the world's most devastating diseases, the compact will respect the laws of each of these
11 United States by adopting rules that establish ethical standards for research that shall be followed
12 in order for a prize to be claimed. The compact, in the rules, shall establish a common set of
13 ethical standards that embodies the laws and restrictions in each of the states so that to be eligible
14 for claiming a prize the entity submitting a cure must not have violated any of the ethical
15 standards in any one of the 50 states, whether the states have joined the compact or not. The
16 compact will publish these common ethical standards along with the specific criteria for a cure
17 for each of the diseases the compact has targeted. So long as a researcher follows the common
18 ethical standards in effect at the time the research is done, an entity presenting a cure will be
19 deemed to have followed the standards. On or before January 1 of each year, the compact shall
20 review all state laws to determine if additional ethical standards have been enacted by any of the
21 50 states and the federal government. Any changes to the common ethical standards rules based
22 on new state laws shall be adopted and published by the compact, but shall not take effect in cure
23 criteria for a period of three years to allow for sufficient notice to researchers.

24 **(d)** All rules may be amended as the Commission sees necessary.

25 **(e)** All rules shall be adopted pursuant to a rulemaking process that conforms to the
26 Model State Administrative Procedure Act of 1981 by the uniform law commissioners, as
27 amended, as may be appropriate to the operations of the Commission.

28 **(f)** In the event the Commission exercises its rulemaking authority in a manner that is
29 beyond the scope of the purpose of this compact or the powers granted hereunder, then such rule
30 shall be invalid and have no force and effect.

31 **"§ 90-326.6. Management committee.**

32 **(a)** The Commission may establish a management committee comprised of not more than
33 14 members when 26 states enact the compact.

34 **(b)** The committee shall consist of those members representing compacting states whose
35 total public health expenses of all of the established diseases are the highest.

36 **(c)** The committee shall have such authority and duties as may be set forth in the
37 Commission's bylaws and rules, including:

38 **(1)** Managing authority over the day-to-day affairs of the Commission in a
39 manner consistent with the Commission's bylaws and rules and the purposes
40 of the compact.

41 **(2)** Overseeing the offices of the Commission.

42 **(3)** Planning, implementing, and coordinating communications and activities with
43 state, federal, and local government organizations in order to advance the
44 goals of the compact.

45 **(d)** The Commission annually shall elect officers for the committee, with each having
46 such authority and duties as may be specified in the Commission's bylaws and rules.

47 **(e)** The management committee, subject to Commission approval, may appoint or retain
48 an executive director for such period, upon such terms and conditions, and for such compensation
49 as the committee determines. The executive director shall serve as secretary to the Commission
50 but shall not be a member of the Commission. The executive director shall hire and supervise
51 such other staff as may be authorized by the committee.

"§ 90-326.7. Advisory committees.

The Commission may appoint advisory committees to monitor all operations related to the purposes of the compact and make recommendations to the Commission; provided that the manner of selection and term of any committee member shall be as set forth in the Commission's bylaws and rules. The Commission shall consult with an advisory committee, to the extent required by the Commission's bylaws or rules, before doing any of the following:

- (1) Approving cure criteria.
- (2) Amending, enacting, or repealing any bylaw or rule.
- (3) Adopting the Commission's annual budget.
- (4) Addressing any other significant matter or taking any other significant action.

"§ 90-326.8. Finance.

(a) The Commission annually shall establish a budget to pay or provide for the payment of its reasonable expenses. To fund the cost of initial operations, the Commission may accept contributions and other forms of funding from the compacting states and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the Commission concerning the performance of its duties shall not be compromised.

(b) The Commission shall be exempt from all taxation in and by the compacting states.

(c) The Commission shall keep complete and accurate accounts of all of its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the Commission shall be subject to the accounting procedures established under the Commission's bylaws or rules. The financial accounts and reports, including the system of internal controls and procedures of the Commission, shall be audited annually by an independent certified public accountant. Upon the determination of the Commission but not less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the Commission. The Commission shall make an annual report to the governors and legislatures of the compacting states, which shall include a report of the independent audit. The Commission's internal accounts shall not be confidential, and such materials may be shared with any compacting state upon request, provided, however, that any work papers related to any internal or independent audit and any information subject to the compacting states' privacy laws shall remain confidential.

(d) No compacting state shall have any claim or ownership of any property held by or vested in the Commission or to any Commission funds held pursuant to the provisions of the compact.

"§ 90-326.9. Records.

Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any member of the duty to disclose any relevant records, data, or information to the Commission; provided, that disclosure to the Commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in the compact, the Commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the Commission shall remain confidential after such information is provided to any member. All cure submissions received by the Commission are confidential.

"§ 90-326.10. Compliance.

The Commission shall notify a compacting state in writing of any noncompliance with Commission bylaws and rules. If a compacting state fails to remedy its noncompliance within the time specified in the notice, the compacting state shall be deemed to be in default as set forth in G.S. 90-326.14.

"§ 90-326.11. Venue.

1 Venue for any judicial proceedings by or against the Commission shall be brought in the
2 appropriate court of competent jurisdiction for the geographical area in which the principal office
3 of the Commission is located.

4 **"§ 90-326.12. Qualified immunity, defense, and indemnification.**

5 (a) The members, officers, executive director, employees, and representatives of the
6 Commission shall be immune from suit and liability, either personally or in their official capacity,
7 for any claim for damage to or loss of property or personal injury or other civil liability caused
8 by or arising out of any actual or alleged act, error, or omission that occurred, or that such person
9 had a reasonable basis for believing occurred within the scope of the person's Commission
10 employment, duties, or responsibilities; provided, that nothing in this subsection shall be
11 construed to protect any such person from suit or liability for any damage, loss, injury, or liability
12 caused by the intentional or willful and wanton misconduct of that person.

13 (b) The Commission shall defend any member, officer, executive director, employee, or
14 representative of the Commission in any civil action seeking to impose liability arising out of
15 any actual or alleged act, error, or omission that occurred within the scope of the person's
16 Commission employment, duties, or responsibilities, or that such person had a reasonable basis
17 for believing occurred within the scope of the person's Commission employment, duties, or
18 responsibilities; provided, that nothing in the compact or Commission bylaws or rules shall be
19 construed to prohibit that person from retaining his or her own counsel; and provided further,
20 that the actual or alleged act, error, or omission did not result from that person's intentional or
21 willful and wanton misconduct.

22 (c) The Commission shall indemnify and hold harmless any member, officer, executive
23 director, employee, or representative of the Commission for the amount of any settlement or
24 judgment obtained against the person arising out of any actual or alleged act, error, or omission
25 that occurred within the scope of the person's Commission employment, duties, or
26 responsibilities, or that such person had a reasonable basis for believing occurred within the scope
27 of Commission employment, duties, or responsibilities; provided, that the actual or alleged act,
28 error, or omission did not result from the intentional or willful and wanton misconduct of that
29 person.

30 **"§ 90-326.13. Compacting states, effective date, amendments, and funding.**

31 (a) Compacting States. – Any state is eligible to become a compacting state.

32 (b) Effective Date. – The compact shall become effective and binding upon legislative
33 enactment of the compact into law by two compacting states; provided that the Commission shall
34 only be established after six states become compacting states. Thereafter, the compact shall
35 become effective and binding as to any other compacting state upon enactment of the compact
36 into law by that state.

37 (c) Amendments. – Amendments to the compact may be proposed by the Commission
38 for enactment by the compacting states. No amendment shall become effective and binding until
39 all compacting states enact the amendment into law.

40 (d) Funding. – If funding is requested or required, the legislative authority of each
41 compacting state shall be responsible for making the appropriations it determines necessary to
42 pay for the costs of the compact, including annual member dues and prize distributions.

43 **"§ 90-326.14. Withdrawal, default, and expulsion.**

44 (a) Once effective, the compact shall continue in force and remain binding upon each and
45 every compacting state; provided, that a compacting state may withdraw from the compact by
46 doing both of the following:

47 (1) Repealing the law enacting the compact in that state.

48 (2) Notifying the Commission in writing of the intent to withdraw on a date that
49 is both of the following:

50 a. At least three years after the date the notice is sent.

51 b. After the repeal takes effect.

1 (b) The effective date of withdrawal is the date described in subdivision (2) of subsection
2 (a) of this section.

3 (c) The member representing the withdrawing state shall immediately notify the
4 management committee in writing upon the introduction of legislation in that state repealing the
5 compact. If a management committee has not been established, the member shall immediately
6 notify the Commission.

7 (d) The Commission or management committee, as applicable, shall notify the other
8 compacting states of the introduction of such legislation within 10 days after its receipt of notice
9 thereof.

10 (e) The withdrawing state is responsible for all obligations, duties, and liabilities incurred
11 through the effective date of withdrawal, including any obligations, the performance of which
12 extend beyond the effective date of withdrawal. The Commission's actions shall continue to be
13 effective and be given full force and effect in the withdrawing state.

14 **"§ 90-326.15. Reinstatement.**

15 Reinstatement following a state's withdrawal shall become effective upon the effective date
16 of the subsequent enactment of the compact by that state.

17 **"§ 90-326.16. Default.**

18 (a) If the Commission determines that any compacting state has at any time defaulted in
19 the performance of any of its obligations or responsibilities under the compact or the
20 Commission's bylaws or rules, then, after notice and hearing as set forth in the bylaws, all rights,
21 privileges, and benefits conferred by this compact on the defaulting state shall be suspended from
22 the effective date of default as fixed by the Commission. The grounds for default include failure
23 of a compacting state to perform its obligations or responsibilities and any other grounds
24 designated in Commission rules. The Commission shall immediately notify the defaulting state
25 in writing of the suspension pending cure of the default. The Commission shall stipulate the
26 conditions and the time period within which the defaulting state shall cure its default. If the
27 defaulting state fails to cure the default within the time period specified by the Commission, the
28 defaulting state shall be expelled from the compact, and all rights, privileges, and benefits
29 conferred by the compact shall be terminated from the effective date of the expulsion. Any state
30 that is expelled from the compact shall be liable for any cure prize or prizes for three years after
31 its removal. The Commission shall also take appropriate legal action to ensure that any
32 compacting state that withdraws from the compact remains liable for paying its responsibility
33 towards a prize for a cure that was accepted while the compacting state was a member of the
34 Commission.

35 (b) The expelled state must reenact the compact in order to become a compacting state.

36 **"§ 90-326.17. Dissolution of compact.**

37 (a) The compact dissolves effective upon the date of either of the following:

38 (1) The withdrawal or expulsion of a compacting state, which withdrawal or
39 expulsion reduces membership in the compact to one compacting state.

40 (2) The Commission votes to dissolve the compact.

41 (b) Upon the dissolution of the compact, the compact becomes null and void and shall be
42 of no further force or effect, and the business and affairs of the Commission shall be wound up,
43 and any surplus funds shall be distributed in accordance with the Commission's bylaws, provided,
44 that the Commission shall pay all outstanding prizes awarded before the dissolution of the
45 compact, as well as any other outstanding debts and obligations incurred during the existence of
46 the compact. Any unawarded funds donated to be part of a prize shall be returned to the donor,
47 along with any interest earned on the amount.

48 **"§ 90-326.18. Severability and construction.**

49 (a) The provisions of the compact shall be severable, and if any phrase, clause, sentence,
50 or provision is deemed unenforceable, the remaining provisions of the compact shall be
51 enforceable.

1 (b) The provisions of the compact shall be liberally construed to effectuate its purposes.

2 "**§ 90-326.19. Binding effect of compact and other laws.**

3 (a) Other Laws. – Nothing in this Article prevents the enforcement of any other law of a
4 compacting state, except as provided in subdivision (2) of subsection (b) of this section.

5 (b) Binding Effect of the Compact. – All the following are binding:

6 (1) All lawful actions of the Commission, including all Commission rules, are
7 binding upon the compacting states.

8 (2) All agreements between the Commission and the compacting states are
9 binding in accordance with their terms.

10 (3) Except to the extent authorized by the compacting state's constitution or, if
11 constitutional authorization is not required, by other law of the compacting
12 state, such state, by entering into the compact does not:

13 a. Commit the full faith and credit or taxing power of the compacting
14 state for the payment of prizes or other obligations under the compact.

15 b. Make prize payment responsibilities or other obligations under the
16 compact a debt of the compacting state.

17 (4) Upon the request of a party to a conflict over the meaning or interpretation of
18 Commission actions, and upon a majority vote of the compacting states, the
19 Commission may issue advisory opinions regarding the meaning or
20 interpretation in dispute.

21 (5) In the event any provision of the compact exceeds the constitutional limits
22 imposed on any compacting state, the obligations, duties, powers, or
23 jurisdiction sought to be conferred by that provision upon the Commission
24 shall be ineffective as to that compacting state, and those obligations, duties,
25 powers, or jurisdiction shall remain in the compacting state and shall be
26 exercised by the agency thereof to which those obligations, duties, powers, or
27 jurisdiction are delegated by law in effect at the time the compact becomes
28 effective."

29 **SECTION 2.** This act becomes effective upon the enactment of the compact into law
30 by at least two compacting states.