

**As Re-Referred by the House Rules and Reference Committee**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. S. B. No. 255**

**Senator McColley**

**Cosponsors: Senators Wilson, Jordan, Huffman, Terhar, LaRose, Coley, Hoagland, Lehner, Eklund, Beagle, Balderson, Hackett, Obhof, O'Brien, Peterson, Uecker Representatives Roegner, Becker, Merrin, Retherford, Young, Zeltwanger**

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**A BILL**

To enact sections 9.78, 101.62, 101.63, 101.64, 1  
101.65, 103.26, 103.27, 4798.01, 4798.02, and 2  
4798.03 of the Revised Code to establish a 3  
statewide policy on occupational regulation, to 4  
allow an individual who has been convicted of a 5  
criminal offense to request a licensing 6  
authority to determine whether the individual is 7  
disqualified from receiving or holding a 8  
professional license based on conviction, to 9  
require standing committees of the General 10  
Assembly to periodically review occupational 11  
licensing boards regarding their sunset, and to 12  
require the Legislative Service Commission to 13  
issue reports of occupational licensing bills 14  
and state regulation of occupations. 15

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 9.78, 101.62, 101.63, 101.64, 16  
101.65, 103.26, 103.27, 4798.01, 4798.02, and 4798.03 of the 17

Revised Code be enacted to read as follows: 18

Sec. 9.78. (A) As used in this section: 19

(1) "License" means an authorization evidenced by a 20  
license, certificate, registration, permit, card, or other 21  
authority that is issued or conferred by a licensing authority 22  
to an individual by which the individual has or claims the 23  
privilege to engage in a profession, occupation, or occupational 24  
activity over which the licensing authority has jurisdiction. 25

(2) "Licensing authority" means both of the following: 26

(a) A board, commission, or other entity that issues 27  
licenses under Title XLVII or any other provision of the Revised 28  
Code to practice an occupation or profession; 29

(b) A political subdivision that issues a license or that 30  
charges a fee for an individual to practice an occupation or 31  
profession in that political subdivision. 32

(B) An individual who has been convicted of any criminal 33  
offense may request, at any time, that a licensing authority 34  
determine whether the individual's criminal conviction 35  
disqualifies the individual from obtaining a license issued or 36  
conferred by the licensing authority. An individual making such 37  
a request shall include details of the individual's criminal 38  
conviction and any payment required by the licensing authority. 39  
A licensing authority may charge a fee of not more than twenty- 40  
five dollars for each request made under this section, to 41  
reimburse the costs it incurs in making the determination. 42

Not later than thirty days after receiving a request under 43  
this section, the licensing authority shall inform the 44  
individual whether, based on the criminal record information 45  
submitted, the individual is disqualified from receiving or 46

holding the license about which the individual inquired. A 47  
licensing authority is not bound by a determination made under 48  
this section, if, on further investigation, the licensing 49  
authority determines that the individual's criminal convictions 50  
differ from the information presented in the determination 51  
request. 52

(C) A licensing authority shall make available to the 53  
public on the licensing authority's internet web site a list of 54  
all criminal offenses of which conviction of that offense shall 55  
disqualify an individual from obtaining a license issued or 56  
conferred by the licensing authority. 57

**Sec. 101.62.** (A) As used in sections 101.62 to 101.65 of 58  
the Revised Code: 59

"Individual" means a natural person. 60

"Least restrictive regulation," "occupational license," 61  
and "occupational licensing board" have the meanings defined in 62  
section 4798.01 of the Revised Code. 63

(B) An occupational licensing board shall be triggered to 64  
expire at the end of the thirty-first day of December of the 65  
sixth year after it was created or last renewed, or on December 66  
31, 2024, whichever is later, and shall expire at the end of the 67  
thirtieth day of June of the following year after the board was 68  
triggered to expire. The expiration of an occupational licensing 69  
board under this section emancipates a person to lawfully engage 70  
in the profession, occupation, or occupational activity, which 71  
has been previously licensed by that board, without an 72  
occupational license, notwithstanding any law of the state that 73  
requires a person to possess a license to lawfully engage in 74  
that profession, occupation, or occupational activity. 75

(C) The director of budget and management shall not 76  
authorize the expenditure of any moneys for an occupational 77  
licensing board on or after the date of its expiration. 78

(D) The occupational licensing board shall operate after 79  
its expiration has been triggered, but not later than the end of 80  
the thirtieth day of June of the following year, to provide for 81  
the orderly, efficient, and expeditious conclusion of the 82  
board's business and operation. The orders, licenses, contracts, 83  
and other actions made, taken, granted, or performed by the 84  
board continue in effect according to their terms 85  
notwithstanding the board's abolition, unless the general 86  
assembly provides otherwise by law. The general assembly may 87  
provide by law for the temporary or permanent transfer of some 88  
or all of an expired or abolished board's functions and 89  
personnel to a successor agency, board, or officer. 90

The expiration or abolition of a board does not cause the 91  
termination or dismissal of any claim pending against the board 92  
by any person, or any claim pending against any person by the 93  
board. Unless the general assembly provides otherwise by law for 94  
the substitution of parties, the attorney general shall succeed 95  
the board with reference to any pending claim. 96

(E) An occupational licensing board may be renewed by 97  
enactment of a law that continues the statutes creating, 98  
empowering, governing, or regulating the board. The amendment of 99  
a statute creating, empowering, governing, or regulating a 100  
board, between the time the board was last reviewed and the time 101  
it is next scheduled to be reviewed does not change the next 102  
scheduled review date of the board. The next scheduled review 103  
date changes only if the amendment expressly so provides. 104

(F) When an occupational licensing board performs 105

functions other than licensing or regulating the licensing of an 106  
occupational license that expires under this section, the 107  
operation of sections 101.62 to 101.65 of the Revised Code shall 108  
not cause the board, or the statutes creating, empowering, 109  
governing, or regulating the board, to expire. The board and the 110  
statutes shall continue to the extent the board and the statutes 111  
apply to performing functions other than licensing or regulating 112  
the licensing of an occupational license. 113

**Sec. 101.63.** (A) (1) Not later than the first day of March 114  
in the odd-numbered year during which an occupational licensing 115  
board is scheduled to be triggered to expire the following even- 116  
numbered year under section 101.62 of the Revised Code, the 117  
speaker of the house of representatives shall direct a standing 118  
committee of the house of representatives to hold hearings to 119  
receive the testimony of the public and of the chief executive 120  
officer of the board, and otherwise to review, consider, and 121  
evaluate the usefulness, performance, and effectiveness of the 122  
board. Not later than the fifteenth day of November of that same 123  
odd-numbered year, the standing committee shall prepare and 124  
publish a report of its findings and recommendations in 125  
accordance with section 101.65 of the Revised Code. If the 126  
standing committee's report includes a bill, the house of 127  
representatives shall consider that bill for passage by the 128  
thirty-first day of December of that same odd-numbered year. 129

(2) Not later than the first day of March in the even- 130  
numbered year during which an occupational licensing board is 131  
scheduled to be triggered to expire under section 101.62 of the 132  
Revised Code, the president of the senate shall direct a 133  
standing committee of the senate to hold hearings to receive 134  
testimony of the public and of the chief executive officer of 135  
the board, and otherwise to review, consider, and evaluate the 136

usefulness, performance, and effectiveness of the board and any 137  
bill considered by the house of representatives related to the 138  
expiration of that board. Not later than the fifteenth day of 139  
November of that same even-numbered year, the standing committee 140  
shall prepare and publish a report of its findings and 141  
recommendations in accordance with section 101.65 of the Revised 142  
Code. If the standing committee's report includes a bill, the 143  
senate shall consider that bill for passage by the thirty-first 144  
day of December of that same even-numbered year. 145

(3) The president of the senate and the speaker of the 146  
house of representatives may, in the same manner as described in 147  
divisions (A) (1) and (2) of this section, direct a standing 148  
committee to review an occupational licensing board for which 149  
the director of the legislative service commission, under 150  
section 103.27 of the Revised Code, has performed a review. 151

(4) The president of the senate and the speaker of the 152  
house of representatives shall direct standing committees to 153  
review approximately thirty-three per cent of the occupational 154  
licensing boards each biennium. All occupational licensing 155  
boards shall be reviewed over a six-year period including 156  
calendar years 2019 through 2024, and also during each 157  
subsequent six-year period. 158

(B) Each occupational licensing board that is scheduled to 159  
be reviewed by a standing committee shall submit to the standing 160  
committee a report that contains all of the following 161  
information: 162

(1) The board's primary purpose and its various goals and 163  
objectives; 164

(2) The board's past and anticipated workload, the number 165

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| <u>of staff required to complete that workload, and the board's</u>     | 166 |
| <u>total number of staff;</u>   | 167 |
| <u>(3) The board's past and anticipated budgets and its</u>             | 168 |
| <u>sources of funding;</u>  | 169 |
| <u>(4) The number of members of its governing board or other</u>        | 170 |
| <u>governing entity and their compensation, if any.</u>                 | 171 |
| <u>(C) Each board shall have the burden of demonstrating to</u>         | 172 |
| <u>the standing committee a public need for its continued</u>           | 173 |
| <u>existence. In determining whether a board has demonstrated that</u>  | 174 |
| <u>need, the standing committee shall consider, as relevant, all of</u> | 175 |
| <u>the following:</u>   | 176 |
| <u>(1) Whether or not continuation of the board is necessary</u>        | 177 |
| <u>to protect the health, safety, or welfare of the public, and if</u>  | 178 |
| <u>so, whether or not the board's authority is narrowly tailored to</u> | 179 |
| <u>protect against present, recognizable, and significant harms to</u>  | 180 |
| <u>the health, safety, or welfare of the public;</u>                    | 181 |
| <u>(2) Whether or not the public could be protected or served</u>       | 182 |
| <u>in an alternate or less restrictive manner;</u>                      | 183 |
| <u>(3) Whether or not the board serves a specific private</u>           | 184 |
| <u>interest;</u>  | 185 |
| <u>(4) Whether or not rules adopted by the board are</u>                | 186 |
| <u>consistent with the legislative mandate of the board as</u>          | 187 |
| <u>expressed in the statutes that created and empowered the board;</u>  | 188 |
| <u>(5) The extent to which the board's jurisdiction and</u>             | 189 |
| <u>programs overlap or duplicate those of other boards, the extent</u>  | 190 |
| <u>to which the board coordinates with those other boards, and the</u>  | 191 |
| <u>extent to which the board's programs could be consolidated with</u>  | 192 |
| <u>the programs of other state departments or boards;</u>               | 193 |

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| <u>(6) How many other states regulate the occupation, whether</u>       | 194 |
| <u>a license is required to engage in the occupation in other</u>       | 195 |
| <u>states, whether the initial licensing and license renewal</u>        | 196 |
| <u>requirements for the occupation are substantially equivalent in</u>  | 197 |
| <u>every state, and the amount of regulation exercised by the board</u> | 198 |
| <u>compared to the regulation, if any, in other states;</u>             | 199 |
| <br>  |     |
| <u>(7) The extent to which significant changes in the board's</u>       | 200 |
| <u>rules could prevent an individual licensed in this state from</u>    | 201 |
| <u>practicing, or allow an individual licensed in this state to</u>     | 202 |
| <u>practice, the same occupation in another jurisdiction without</u>    | 203 |
| <u>obtaining an occupational license for that occupation in that</u>    | 204 |
| <u>other jurisdiction;</u>  | 205 |
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| <u>(8) Whether the board recognizes national uniform</u>                | 206 |
| <u>licensure requirements for the occupation;</u>                       | 207 |
| <br>  |     |
| <u>(9) Whether or not private contractors could be used, in</u>         | 208 |
| <u>an effective and efficient manner, either to assist the board in</u> | 209 |
| <u>the performance of its duties or to perform these duties instead</u> | 210 |
| <u>of the board;</u>  | 211 |
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| <u>(10) Whether or not the operation of the board has</u>               | 212 |
| <u>inhibited economic growth, reduced efficiency, or increased the</u>  | 213 |
| <u>cost of government;</u>  | 214 |
| <br>  |     |
| <u>(11) An assessment of the authority of the board regarding</u>       | 215 |
| <u>fees, inspections, enforcement, and penalties;</u>                   | 216 |
| <br>  |     |
| <u>(12) The extent to which the board has permitted qualified</u>       | 217 |
| <u>applicants to serve the public;</u>                                  | 218 |
| <br>  |     |
| <u>(13) The extent to which the board has permitted</u>                 | 219 |
| <u>individuals to practice elements of the occupation without a</u>     | 220 |
| <u>license;</u>   | 221 |



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| <u>(14) The cost-effectiveness of the board in terms of</u>             | 222 |
| <u>number of employees, services rendered, and administrative costs</u> | 223 |
| <u>incurred, both past and present;</u>                                 | 224 |
| <u>(15) Whether or not the board's operation has been impeded</u>       | 225 |
| <u>or enhanced by existing statutes and procedures and by</u>           | 226 |
| <u>budgetary, resource, and personnel practices;</u>                    | 227 |
| <u>(16) Whether the board has recommended statutory changes</u>         | 228 |
| <u>to the general assembly that would benefit the public as opposed</u> | 229 |
| <u>to the persons regulated by the board, if any, and whether its</u>   | 230 |
| <u>recommendations and other policies have been adopted and</u>         | 231 |
| <u>implemented;</u>   | 232 |
| <u>(17) Whether the board has required any persons it</u>               | 233 |
| <u>regulates to report to it the impact of board rules and</u>          | 234 |
| <u>decisions on the public as they affect service costs and service</u> | 235 |
| <u>delivery;</u>  | 236 |
| <u>(18) Whether persons regulated by the board, if any, have</u>        | 237 |
| <u>been required to assess problems in their business operations</u>    | 238 |
| <u>that affect the public;</u>  | 239 |
| <u>(19) Whether the board has encouraged public participation</u>       | 240 |
| <u>in its rule-making and decision-making;</u>                          | 241 |
| <u>(20) The efficiency with which formal public complaints</u>          | 242 |
| <u>filed with the board have been processed to completion;</u>          | 243 |
| <u>(21) Whether the purpose for which the board was created</u>         | 244 |
| <u>has been fulfilled, has changed, or no longer exists;</u>            | 245 |
| <u>(22) Whether federal law requires that the board be</u>              | 246 |
| <u>renewed in some form;</u>  | 247 |
| <u>(23) An assessment of the administrative hearing process</u>         | 248 |
| <u>of a board if the board has an administrative hearing process,</u>   | 249 |

and whether or not the hearing process is consistent with due 250  
process rights; 251

(24) Whether the requirement for the occupational license 252  
is consistent with the policies expressed in section 4798.02 of 253  
the Revised Code, serves a meaningful, defined public interest, 254  
and provides the least restrictive form of regulation that 255  
adequately protects the public interest; 256

(25) The extent to which licensing ensures that 257  
practitioners have occupational skill sets or competencies that 258  
are substantially related to protecting consumers from present, 259  
significant, and substantiated harms that threaten public 260  
health, safety, or welfare, and the impact that those criteria 261  
have on applicants for a license, particularly those with 262  
moderate or low incomes, seeking to enter the occupation or 263  
profession; 264

(26) The extent to which the requirement for the 265  
occupational license stimulates or restricts competition, 266  
affects consumer choice, and affects the cost of services; 267

(27) An assessment of whether or not changes are needed in 268  
the enabling laws of the board in order for it to comply with 269  
the criteria suggested by the considerations listed in division 270  
(C) of this section. 271

For division (C) of this section, a government regulatory 272  
requirement protects or serves the public interest if it 273  
provides protection from present, significant, and substantiated 274  
harms to the health, safety, or welfare of the public. 275

(D) The legislative service commission shall provide staff 276  
services to a standing committee performing its duties under 277  
this section and section 101.65 of the Revised Code. 278

Sec. 101.64. The president of the senate and the speaker 279  
of the house of representatives shall notify the chief of the 280  
common sense initiative office, established under section 107.61 281  
of the Revised Code, when a board is identified to be reviewed 282  
by a standing committee under section 101.63 of the Revised 283  
Code. The chief or the chief's designee shall appear and testify 284  
before the standing committee, with respect to the board, and 285  
shall testify on at least all of the following: 286

(A) Whether or not the common sense initiative office has, 287  
within the previous six years, received commentary related to 288  
the board through the comment system established under section 289  
107.62 of the Revised Code; 290

(B) Whether or not the common sense initiative office has, 291  
within the previous six years, received advice from the small 292  
business advisory council with respect to rules of the board; 293

(C) Any other information the chief believes will 294  
elucidate the effectiveness and efficiency of the board and in 295  
particular the quality of customer service provided by the 296  
board. 297

Sec. 101.65. (A) After the completion of the review of a 298  
board under section 101.63 of the Revised Code, the standing 299  
committee that conducted the review shall prepare and publish a 300  
report of its findings and recommendations. A standing committee 301  
may include in a single report its findings and recommendations 302  
regarding more than one board. The committee shall furnish a 303  
copy of the report to the president of the senate, the speaker 304  
of the house of representatives, the governor, and each affected 305  
board. Any published report shall be made available to the 306  
public on the standing committee's internet web site, and in the 307  
offices of the house of representatives and senate clerks during 308

reasonable hours. As part of a report, the standing committee 309  
may present its recommendations to the general assembly in bill 310  
form. 311

(B) Recommendations made by the standing committee shall 312  
indicate how or whether their implementation will do each of the 313  
following: 314

(1) Improve efficiency in the management of state 315  
government; 316

(2) Improve services rendered to citizens of the state; 317

(3) Simplify and improve preparation of the state budget; 318

(4) Conserve the natural resources of the state; 319

(5) Promote the orderly growth of the state and its 320  
government; 321

(6) Promote that occupational regulations shall be 322  
construed and applied to increase economic opportunities, 323  
promote competition, and encourage innovation; 324

(7) Provide for the least restrictive regulation by 325  
repealing the current regulation and replacing it with a less 326  
restrictive regulation that is consistent with the policies 327  
expressed in section 4798.02 of the Revised Code; 328

(8) Improve the effectiveness of the services performed by 329  
the service departments of the state; 330

(9) Avoid duplication of effort by state agencies or 331  
boards; 332

(10) Improve the organization and coordination of the 333  
state government in one or more of the ways listed in divisions 334  
(B)(1) to (9) of this section. 335

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| <u>Sec. 103.26. (A) As used in this section and section</u>             | 336 |
| <u>103.27 of the Revised Code:</u>                                      | 337 |
| <u>"Individual" means a natural person.</u>                             | 338 |
| <u>"Least restrictive regulation" has the meaning defined in</u>        | 339 |
| <u>section 4798.01 of the Revised Code.</u>                             | 340 |
| <u>"Occupational regulation" means a statute or rule that</u>           | 341 |
| <u>controls an individual's practice of a trade or profession.</u>      | 342 |
| <u>(B) With respect to legislation that has been introduced</u>         | 343 |
| <u>in the house of representatives or in the senate, which proposes</u> | 344 |
| <u>to substantially change or enact an occupational regulation, the</u> | 345 |
| <u>director of the legislative service commission shall issue a</u>     | 346 |
| <u>report of the legislation. The director shall issue a report</u>     | 347 |
| <u>that compares the regulatory scheme proposed in the legislation</u>  | 348 |
| <u>with the policies expressed in section 4798.02 of the Revised</u>    | 349 |
| <u>Code with respect to proposing the least restrictive regulation</u>  | 350 |
| <u>to protect consumers from present, significant, and</u>              | 351 |
| <u>substantiated harms that threaten public health, safety, or</u>      | 352 |
| <u>welfare. The director shall issue this report to the general</u>     | 353 |
| <u>assembly in a timely manner.</u>                                     | 354 |
| <u>To the extent possible with readily available or</u>                 | 355 |
| <u>obtainable information, the director shall report on</u>             | 356 |
| <u>consequences of the legislation with respect to:</u>                 | 357 |
| <u>(1) Opportunities for employment within the occupation;</u>          | 358 |
| <u>(2) Consumer choices and costs;</u>                                  | 359 |
| <u>(3) Market competition;</u>  | 360 |
| <u>(4) Cost to government.</u>  | 361 |
| <u>(C) The report issued under division (B) of this section</u>         | 362 |

shall include all of the following: 363

(1) A comparison of the regulatory scheme put forth in the 364  
legislation with the current regulatory scheme in other similar 365  
states for the same occupation and a consideration of the extent 366  
to which significant changes in the board's rules could prevent 367  
an individual licensed in this state from practicing, or allow 368  
an individual licensed in this state to practice, the same 369  
occupation in another jurisdiction without obtaining an 370  
occupational license for that occupation in that other 371  
jurisdiction; 372

(2) A comparison of the regulatory scheme put forth in the 373  
legislation with the policy of this state as set forth in the 374  
sections of the Revised Code governing the occupation that is 375  
the subject of the legislation, if those sections include such a 376  
policy. 377

(D) The sponsor of a bill, in order to assist the director 378  
of the legislative service commission with the director's duties 379  
under division (B) of this section, may submit to the director 380  
any relevant information, including the following: 381

(1) Evidence of present, significant, and substantiated 382  
harms to consumers in the state; 383

(2) An explanation of why existing civil or criminal laws 384  
or procedures are inadequate to prevent or remedy any harm to 385  
the public; 386

(3) An explanation of why a less restrictive regulation, 387  
that is consistent with the policies expressed in section 388  
4798.02 of the Revised Code, is not proposed; 389

(4) The names of associations, organizations, or other 390  
groups representing the occupation seeking regulation and the 391

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| <u>approximate number of members in each in this state;</u>   | 392                             |
| <u>(5) The functions typically performed by members of this occupation and whether they are identical or similar to those performed by another occupation;</u>  | 393<br>394<br>395               |
| <u>(6) Whether specialized training, education, or experience is required to engage in the occupation and, if so, how current practitioners acquired that training, education, or experience;</u>   | 396<br>397<br>398               |
| <u>(7) Whether or not the proposed regulation would change the way practitioners of the occupation acquire any necessary specialized training, education, or experience and, if so, why;</u>  | 399<br>400<br>401               |
| <u>(8) Whether or not any current practitioners of the occupation in this state lack whatever specialized training, education, or experience might be required to engage in the occupation and, if so, how the proposed regulation would address that deficiency;</u> | 402<br>403<br>404<br>405<br>406 |
| <u>(9) Whether or not new entrants into the occupation would be required to provide evidence of any necessary training, education, or experience, or to pass an examination, or both;</u>   | 407<br>408<br>409               |
| <u>(10) Whether or not current practitioners would be required to provide evidence of any necessary training, education, or experience, or to pass an examination, and, if not, why not;</u>  | 410<br>411<br>412<br>413        |
| <u>(11) The expected impact of the proposed regulation on the supply of practitioners of the occupation and on the cost of services or goods provided by the occupation;</u>  | 414<br>415<br>416               |
| <u>(12) Information from others knowledgeable about the occupation, and the related economic factors.</u>   | 417<br>418                      |
| <u>(E) A bill which proposes to substantially change or enact</u>   | 419                             |

an occupational regulation shall not be favorably reported out 420  
of committee until after the committee members have received and 421  
considered the report provided under division (B) of this 422  
section, unless two-thirds of the members of the committee vote 423  
in the affirmative to favorably report the bill. 424

**Sec. 103.27.** Each biennium starting with an odd-numbered 425  
year, beginning in 2019, the director of the legislative service 426  
commission shall issue a report regarding approximately thirty- 427  
three per cent of occupations subject to regulation by the 428  
state. The report shall compare the current regulatory scheme 429  
being utilized in this state with the policies expressed in 430  
section 4798.02 of the Revised Code. 431

The director shall issue all reports performed during a 432  
biennium, not later than the first day of December of the even- 433  
numbered year of that biennium, to the general assembly and to 434  
the attorney general. 435

The director may require that information be submitted by 436  
any department or board that regulates the occupation. 437

The director shall, over a six-year period including 438  
calendar years 2019 through 2024, issue reports regarding all 439  
occupations subject to regulation by the state. The director's 440  
report regarding an occupation may be scheduled to coincide 441  
with, and be done in conjunction with, the review of an 442  
occupational licensing board being done by a standing committee 443  
of the general assembly under section 101.63 of the Revised 444  
Code. 445

**Sec. 4798.01.** (A) As used in this chapter: 446

"Certification" means a voluntary program in which a 447  
private organization or the state grants nontransferable 448



recognition to an individual who meets personal qualifications 449  
established by the private organization or state law. 450

"Individual" means a natural person. 451

"Lawful occupation" means a course of conduct, pursuit, or 452  
profession that includes the sale of goods or services that are 453  
not themselves illegal to sell irrespective of whether the 454  
individual selling the goods or services is subject to an 455  
occupational regulation. 456

"Least restrictive regulation" means the public policy of 457  
relying on one of the following, listed from the least to the 458  
most restrictive, as a means of consumer protection: market 459  
competition; third-party or consumer-created ratings and 460  
reviews; private certification; specific private civil cause of 461  
action to remedy consumer harm; actions under Chapter 1345. of 462  
the Revised Code; regulation of the process of providing the 463  
specific goods or services to consumers; inspection; bonding or 464  
insurance; registration; government certification; specialty 465  
occupational license for medical reimbursement; and occupational 466  
license. 467

"Occupational license" means nontransferable authorization 468  
in law that an individual must possess in order to perform a 469  
lawful occupation for compensation based on meeting personal 470  
qualifications established by statute, or by a rule authorized 471  
by statute. "Occupational license" does not include a commercial 472  
or other driver's license issued under the Revised Code. 473

"Occupational licensing board" means any board, 474  
commission, committee, or council, or any other similar state 475  
public body, and any administrative department enumerated under 476  
section 121.02 of the Revised Code, and any agency, division, or 477

office of state government, that issues an occupational license. 478

"Occupational regulation" means a statute, policy, rule, 479  
adjudication order, practice, or other state law requiring an 480  
individual to possess certain personal qualifications to use an 481  
occupational title or work in a lawful occupation. "Occupational 482  
regulation" includes registration, certification, and 483  
occupational license. "Occupational regulation" excludes a 484  
business license, facility license, building permit, or zoning 485  
and land use regulation, except to the extent those laws 486  
regulate an individual's personal qualifications to perform a 487  
lawful occupation, and excludes sections of the Revised Code 488  
related to commercial or other driver's license. 489

"Personal qualifications" mean criteria related to an 490  
individual's personal background and characteristics including 491  
completion of an approved educational program, satisfactory 492  
performance on an examination, work experience, other evidence 493  
of attainment of requisite skills or knowledge, moral standing, 494  
criminal history, and completion of continuing education. 495

"Registration" means a requirement to give notice to the 496  
government that may include the individual's name and address, 497  
the individual's agent for service of process, the location of 498  
the activity to be performed, and a description of the service 499  
the individual provides. "Registration" does not include 500  
personal qualifications but may require a bond or insurance. 501

"Specialty occupational license for medical reimbursement" 502  
is a nontransferable authorization in law for an individual to 503  
qualify for payment or reimbursement from a government agency, 504  
for providing identified medical services, based on meeting 505  
personal qualifications established in law, which may be 506  
recognized by a private company. 507

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|---|---|
| <u>(B) For purposes of this chapter:</u>  | 508   |
| <u>(1) The terms "certification" and "registration" are not synonymous with "occupational license."</u>   | 509<br>510  |
| <u>(2) The use of the words "certification" and "certified" in other statutes to mean requiring an individual to meet certain personal qualifications to work legally shall be interpreted for the purposes of this chapter as requiring an individual to meet the requirements of an "occupational license."</u>   | 511<br>512<br>513<br>514<br>515<br>516                      |
| <u>(3) The use of the words "registration" and "registered" in other statutes to mean requiring an individual to meet certain personal qualifications to work legally shall be interpreted for the purposes of this chapter as requiring an individual to meet the requirements of an "occupational license."</u>   | 517<br>518<br>519<br>520<br>521<br>522                      |
| <u>Sec. 4798.02. With respect to occupational regulation of individuals, all of the following are the policy of the state:</u>  | 523<br>524  |
| <u>(A) Occupational regulations shall be construed and applied to increase economic opportunities, promote competition, and encourage innovation.</u>   | 525<br>526<br>527   |
| <u>(B) Where the state finds it is necessary to displace competition, the state will use the least restrictive regulation to protect consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare. The policy of employing the least restrictive regulation shall presume that market competition and private remedies are sufficient to protect consumers. Where needed, regulations shall be tailored to meet the predominate identified need to protect consumers, as follows:</u> | 528<br>529<br>530<br>531<br>532<br>533<br>534<br>535<br>536 |

(1) If regulations are intended to protect consumers 537  
against fraud, the appropriate state action shall be to 538  
strengthen powers under deceptive trade practices acts. 539

(2) If regulations are intended to protect consumers 540  
against unsanitary facilities and general health, safety, or 541  
welfare concerns, the appropriate state action shall be to 542  
require periodic inspections. 543

(3) If regulations are intended to protect consumers 544  
against potential damages to third parties who are not party to 545  
a contract between the seller and buyer, and other types of 546  
externalities, the appropriate state action shall be to require 547  
bonding or insurance. 548

(4) If regulations are intended to protect consumers 549  
against potential damages by transient providers, the 550  
appropriate state action shall be to require registration with 551  
the secretary of state. 552

(5) If regulations are intended to protect consumers 553  
against asymmetrical information between the seller and buyer, 554  
the appropriate state action shall be to offer voluntary 555  
certification, unless suitable, privately offered voluntary 556  
certification for the relevant occupation is available. 557

As used in this division, "suitable" means widely 558  
recognized as reflecting established standards of competency, 559  
skill, or knowledge in the field. 560

(6) If regulations are intended to facilitate governmental 561  
reimbursement for providing medical services for an emerging 562  
medical specialty, the appropriate state action shall be to 563  
require a specialty occupational license for medical 564  
reimbursement. 565

(7) If regulations are required to perform services 566  
regulated by both federal laws and laws of this state, require 567  
the state to recognize an individual's occupational license from 568  
another United States state or territory to allow that 569  
individual to practice in this state, and are based on uniform 570  
national laws, practices, and examinations that have been 571  
adopted by at least fifty United States states and territories, 572  
the appropriate state action shall be to require an occupational 573  
license. 574

For purposes of this division, a uniform national law is 575  
one that has been adopted in a substantially equivalent manner 576  
in at least fifty United States states and territories. 577

(C) An occupational regulation may be enforced against an 578  
individual only to the extent the individual sells goods and 579  
services that are included explicitly in the statute that 580  
defines the occupation's scope of practice. 581

(D) Nothing in this chapter is intended to restrict an 582  
occupational licensing board from requiring, as a condition of 583  
licensure or renewal of licensure, that an individual's personal 584  
qualifications include obtaining or maintaining certification 585  
from a private organization that credentials individuals in the 586  
relevant occupation. 587

By establishing and executing the policies in this 588  
section, in concert with section 107.56 of the Revised Code, the 589  
state intends to ensure that occupational licensing boards and 590  
board members will avoid liability under federal antitrust laws. 591

**Sec. 4798.03.** This chapter preempts any ordinance or other 592  
local law or regulation, which conflicts with or is inconsistent 593  
with any policy of the state expressed in this chapter, by any 594

political subdivision that regulates an occupation that is also 595  
regulated by the state. 596

**Section 2.** Nothing in this act shall be construed to apply 597  
to any rules prescribed under Section 5 of Article IV, Ohio 598  
Constitution. 599

**Section 3.** It is the intention of this act that for the 600  
first biennium, starting in year 2019, the Legislative Service 601  
Commission's review of approximately thirty-three per cent of 602  
the occupations listed under section 103.27 of the Revised Code 603  
shall not consist of a review of the same occupations that will 604  
be reviewed by the General Assembly under section 101.63 of the 605  
Revised Code. This will permit the General Assembly to review 606  
the same occupations beginning in the biennium starting in 2021, 607  
and every biennium thereafter, that had just been reviewed by 608  
the Legislative Service Commission in the previous biennium. 609