

I_132_2069-7

132nd General Assembly
Regular Session
2017-2018

Sub. S. B. No. 255

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



g8mub63ksmdp08rddjgubr

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
of staff required to complete that workload, and the board's 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
<u>(6) How many other states regulate the occupation, whether</u>	194

a license is required to engage in the occupation in other 195
states, whether the initial licensing and license renewal 196
requirements for the occupation are substantially equivalent in 197
every state, and the amount of regulation exercised by the board 198
compared to the regulation, if any, in other states; 199

(7) The extent to which significant changes in the board's 200
rules could prevent an individual licensed in this state from 201
practicing, or allow an individual licensed in this state to 202
practice, the same occupation in another jurisdiction without 203
obtaining an occupational license for that occupation in that 204
other jurisdiction; 205

(8) Whether the board recognizes national uniform 206
licensure requirements for the occupation; 207

(9) Whether or not private contractors could be used, in 208
an effective and efficient manner, either to assist the board in 209
the performance of its duties or to perform these duties instead 210
of the board; 211

(10) Whether or not the operation of the board has 212
inhibited economic growth, reduced efficiency, or increased the 213
cost of government; 214

(11) An assessment of the authority of the board regarding 215
fees, inspections, enforcement, and penalties; 216

(12) The extent to which the board has permitted qualified 217
applicants to serve the public; 218

(13) The extent to which the board has permitted 219
individuals to practice elements of the occupation without a 220
license; 221

(14) The cost-effectiveness of the board in terms of 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
<u>and whether or not the hearing process is consistent with due</u>	250

<u>process rights;</u>	251
<u>(24) Whether the requirement for the occupational license</u>	252
<u>is consistent with the policies expressed in section 4798.02 of</u>	253
<u>the Revised Code, serves a meaningful, defined public interest,</u>	254
<u>and provides the least restrictive form of regulation that</u>	255
<u>adequately protects the public interest;</u>	256
<u>(25) The extent to which licensing ensures that</u>	257
<u>practitioners have occupational skill sets or competencies that</u>	258
<u>are substantially related to protecting consumers from present,</u>	259
<u>significant, and substantiated harms that threaten public</u>	260
<u>health, safety, or welfare, and the impact that those criteria</u>	261
<u>have on applicants for a license, particularly those with</u>	262
<u>moderate or low incomes, seeking to enter the occupation or</u>	263
<u>profession;</u>	264
<u>(26) The extent to which the requirement for the</u>	265
<u>occupational license stimulates or restricts competition,</u>	266
<u>affects consumer choice, and affects the cost of services;</u>	267
<u>(27) An assessment of whether or not changes are needed in</u>	268
<u>the enabling laws of the board in order for it to comply with</u>	269
<u>the criteria suggested by the considerations listed in division</u>	270
<u>(C) of this section.</u>	271
<u>For division (C) of this section, a government regulatory</u>	272
<u>requirement protects or serves the public interest if it</u>	273
<u>provides protection from present, significant, and substantiated</u>	274
<u>harms to the health, safety, or welfare of the public.</u>	275
<u>(D) The legislative service commission shall provide staff</u>	276
<u>services to a standing committee performing its duties under</u>	277
<u>this section and section 101.65 of the Revised Code.</u>	278
<u>Sec. 101.64. The president of the senate and the speaker</u>	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

Sec. 103.26. (A) As used in this section and section 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 section 4798.01 of the Revised Code.</u>	339 340
<u>"Occupational regulation" means a statute or rule that controls an individual's practice of a trade or profession.</u>	341 342
<u>(B) With respect to legislation that has been introduced in the house of representatives or in the senate, which proposes to substantially change or enact an occupational regulation, the director of the legislative service commission shall issue a report of the legislation. The director shall issue a report that compares the regulatory scheme proposed in the legislation with the policies expressed in section 4798.02 of the Revised Code with respect to proposing the least restrictive regulation to protect consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare. The director shall issue this report to the general assembly in a timely manner.</u>	343 344 345 346 347 348 349 350 351 352 353 354
<u>To the extent possible with readily available or obtainable information, the director shall report on consequences of the legislation with respect to:</u>	355 356 357
<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 shall include all of the following:</u>	362 363

(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
approximate number of members in each in this state; 392

<u>(5) The functions typically performed by members of this</u>	393
<u>occupation and whether they are identical or similar to those</u>	394
<u>performed by another occupation;</u>	395
<u>(6) Whether specialized training, education, or experience</u>	396
<u>is required to engage in the occupation and, if so, how current</u>	397
<u>practitioners acquired that training, education, or experience;</u>	398
<u>(7) Whether or not the proposed regulation would change</u>	399
<u>the way practitioners of the occupation acquire any necessary</u>	400
<u>specialized training, education, or experience and, if so, why;</u>	401
<u>(8) Whether or not any current practitioners of the</u>	402
<u>occupation in this state lack whatever specialized training,</u>	403
<u>education, or experience might be required to engage in the</u>	404
<u>occupation and, if so, how the proposed regulation would address</u>	405
<u>that deficiency;</u>	406
<u>(9) Whether or not new entrants into the occupation would</u>	407
<u>be required to provide evidence of any necessary training,</u>	408
<u>education, or experience, or to pass an examination, or both;</u>	409
<u>(10) Whether or not current practitioners would be</u>	410
<u>required to provide evidence of any necessary training,</u>	411
<u>education, or experience, or to pass an examination, and, if</u>	412
<u>not, why not;</u>	413
<u>(11) The expected impact of the proposed regulation on the</u>	414
<u>supply of practitioners of the occupation and on the cost of</u>	415
<u>services or goods provided by the occupation;</u>	416
<u>(12) Information from others knowledgeable about the</u>	417
<u>occupation, and the related economic factors.</u>	418
<u>(E) A bill which proposes to substantially change or enact</u>	419
<u>an occupational regulation shall not be favorably reported out</u>	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, adjudication order, practice, or other state law requiring an individual to possess certain personal qualifications to use an occupational title or work in a lawful occupation. "Occupational regulation" includes registration, certification, and occupational license. "Occupational regulation" excludes a business license, facility license, building permit, or zoning and land use regulation, except to the extent those laws regulate an individual's personal qualifications to perform a lawful occupation, and excludes sections of the Revised Code related to commercial or other driver's license. 479
480
481
482
483
484
485
486
487
488
489

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

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

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

(B) For purposes of this chapter: 508

(1) The terms "certification" and "registration" are not 509
synonymous with "occupational license." 510

(2) The use of the words "certification" and "certified" 511
in other statutes to mean requiring an individual to meet 512
certain personal qualifications to work legally shall be 513
interpreted for the purposes of this chapter as requiring an 514
individual to meet the requirements of an "occupational 515
license." 516

(3) The use of the words "registration" and "registered" 517
in other statutes to mean requiring an individual to meet 518
certain personal qualifications to work legally shall be 519
interpreted for the purposes of this chapter as requiring an 520
individual to meet the requirements of an "occupational 521
license." 522

Sec. 4798.02. With respect to occupational regulation of 523
individuals, all of the following are the policy of the state: 524

(A) Occupational regulations shall be construed and 525
applied to increase economic opportunities, promote competition, 526
and encourage innovation. 527

(B) Where the state finds it is necessary to displace 528
competition, the state will use the least restrictive regulation 529
to protect consumers from present, significant, and 530
substantiated harms that threaten public health, safety, or 531
welfare. The policy of employing the least restrictive 532
regulation shall presume that market competition and private 533
remedies are sufficient to protect consumers. Where needed, 534
regulations shall be tailored to meet the predominate identified 535
need to protect consumers, as follows: 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