



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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132nd General Assembly
(As Introduced)

Reps. Henne, Vitale, Becker, Thompson

BILL SUMMARY

Local occupational licensing fees and requirements

- Prohibits a political subdivision from imposing a fee or other requirement on an occupation or profession that is regulated under the Revised Code, unless the political subdivision imposed the fee or requirement before the bill's effective date and a license is not required under Ohio's Occupational and Professional Licensing Laws.
- Requires a political subdivision to immediately cease all local licensing of an occupation or profession if, on or after the bill's effective date, the state requires a license to practice the occupation or profession under the Occupational and Professional Licensing Laws.

Occupational license fee waivers

- Requires a licensing authority to waive a fee for a license to engage in the practice of an occupation or profession for specified persons.
- Requires an individual seeking a fee waiver to provide proof of the individual's income with the individual's application.

Revised criminal offense licensing requirements

- Requires each state and local licensing authority to establish a list of specific criminal offenses for each type of license issued or conferred by the authority that disqualify an individual from holding that license if the individual is or has been convicted of committing the offense.

- Prohibits a licensing authority from disqualifying a person from licensure based on criminal charges that do not result in conviction or for nonspecific qualifications such as "moral turpitude" or lack of "moral character."
- Permits an individual who has been convicted of any criminal offense to request, at any time, that a licensing authority determine whether the individual's conviction disqualifies the individual from obtaining a license issued or conferred by the licensing authority.

TABLE OF CONTENTS

Overview.....	2
Local occupational licensing fees and requirements	3
Occupational license fee waivers	3
Revised criminal offense licensing requirements.....	4
List of specific offenses	4
Background checks and eligibility determinations.....	13
Definitions.....	13

CONTENT AND OPERATION

Overview

The bill does all of the following:

- Limits license and registration requirements and fees a political subdivision may impose on state-regulated occupations;
- Requires a licensing authority to waive a license issuance fee for low-income individuals or for members or veterans of the military and their spouses;
- Requires a licensing authority to adopt a specific list of offenses the conviction of which disqualifies an individual from receiving a license and establishes a procedure for an individual to receive a determination about the individual's conviction. (See **COMMENT**.)

A "licensing authority," under the bill, means both of the following:



- A board, commission, or other entity that issues licenses under the Occupational and Professional Licensing Laws¹ or any other provision of the Revised Code to practice an occupation or profession;
- A political subdivision that issues a license or that charges a fee for an individual to practice an occupation or profession in that political subdivision.

A "license" is an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing authority to an individual by which the individual has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing authority has jurisdiction.²

Local occupational licensing fees and requirements

The bill prohibits a political subdivision from imposing a licensing fee or other licensing requirement on any occupation or profession for which a license is required under Ohio's Occupational and Professional Licensing Laws. It also prohibits a political subdivision from imposing such a fee or requirement on an occupation or profession that is regulated under a provision of the Revised Code other than the Occupational and Professional Licensing Laws, unless the political subdivision imposed the fee or requirement on the occupation or profession immediately before the bill's effective date.

Under the bill, a political subdivision that imposes a fee or requirement on an occupation or profession that is regulated under a provision of the Revised Code other than the Occupational and Professional Licensing Laws immediately before the bill's effective date may continue to impose the fee or requirement. If, on or after the bill's effective date, the state requires a license to practice the occupation or profession under the Occupational and Professional Licensing Laws, the political subdivision must immediately cease all local licensing of that occupation or profession.³

Occupational license fee waivers

Under the bill, a licensing authority must waive any fee that would otherwise be charged to any of the following individuals for the individual to receive a license to engage in the practice of an occupation or profession under the Occupational and

¹ R.C. Title XLVII.

² R.C. 9.78(A).

³ R.C. 9.78(B) and (C), with conforming changes in R.C. 715.27, 905.503, 907.111, 917.06, 1315.30, 1321.05, 2923.17, 3734.02, 3734.83, 3781.102, 3905.851, 4707.111, 4740.12, 4740.14, 4749.09, 4775.11, 4781.14, and 5903.10.

Professional Licensing Laws or to receive a license to practice an occupation or profession in any political subdivision:

- An individual whose household adjusted gross income is below 130% of the federal poverty line or below a higher threshold established by the Director of Commerce by rule adopted in accordance with the Administrative Procedure Act⁴ (a "low-income individual");
- An active duty service member or the member's spouse;
- An individual who has retired from or was honorably discharged from service in the U.S. Armed Forces or a reserve component of the U.S. Armed Forces or the individual's spouse;
- The surviving spouse of an individual who died while a member of any branch of the U.S. Armed Forces, if the surviving spouse has not remarried.

An individual seeking a fee waiver must apply to the appropriate licensing authority in a format prescribed by the licensing authority. The licensing authority must process the application not later than 30 days after receiving it. Each licensing authority must adopt rules necessary to implement the fee waiver. The licensing authority, in the rules, must require a low-income individual seeking a fee waiver to provide proof of the individual's income with the individual's application.⁵

Revised criminal offense licensing requirements

List of specific offenses

The bill requires a licensing authority to establish, for each type of license issued or conferred by the licensing authority, a list of specific criminal offenses that disqualify an individual from holding the license if the individual is or has been convicted of committing the offense. The licensing authority must include in the list only criminal offenses that are directly related to the duties and responsibilities of the licensed occupation. In adopting the list, the licensing authority must identify each disqualifying offense by name or by the Revised Code section number that creates the offense. The bill prohibits a licensing authority from disqualifying a person from licensure based on

⁴ R.C. Chapter 119.

⁵ R.C. 9.78(D).



criminal charges that do not result in conviction or for nonspecific qualifications such as "moral turpitude" or lack of "moral character."⁶

The table below lists the state-regulated occupations that are affected by the bill's criminal offense licensing requirements in the left-hand column. The right-hand column shows citations to the relevant Revised Code sections that make substantive changes to the occupation's controlling law. The table does not identify occupations regulated at the local level pursuant to local ordinances or regulations that also may be affected by the bill.

Occupations affected by the bill's revised criminal offense licensing requirements	Citation
Acupuncturist or oriental medicine practitioner	R.C. 4762.03, 4762.13, 4762.15
Agent employed by a career school to solicit students	R.C. 3332.11, 3332.12
Agricultural commodity handler	R.C. 926.05
Anesthesiologist assistant	R.C. 4760.03, 4760.13, 4760.15
Aquaculture production facility owner or lessee	R.C. 1533.632
Architect	R.C. 4703.07, 4703.10, 4703.15
Asbestos hazard abatement contractor	R.C. 3710.06
Athlete agent	R.C. 4771.18
Athletic trainer	R.C. 4755.62, 4755.64
Attorney	R.C. 4705.02
Auction firm, auctioneer, apprentice auctioneer, or special auctioneer	R.C. 4707.02, 4707.07, 4707.072, 4707.074, 4707.09, 4707.15, 4707.19
Barber	R.C. 4709.07, 4709.08, 4709.10, 4709.13
Bingo supplies distributor	R.C. 2915.081
Bingo supplies manufacturer	R.C. 2915.082
Blind operator of a suitable vending facility	R.C. 3304.31
Boutique services provider	R.C. 4713.69
Captive insurance company manager	R.C. 3964.03
Career school owner/operator	R.C. 3332.05, 3332.09
Casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor	R.C. 3772.04, 3772.07, 3772.10, 3772.16, 3772.99

⁶ R.C. 9.79(A), with conforming changes throughout the bill.



Occupations affected by the bill's revised criminal offense licensing requirements	Citation
Certificate of authority to establish and operate a health insuring corporation	R.C. 1751.05
Certified behavior analyst	R.C. 4783.04, 4783.09
Charitable organization fund-raising counsel	R.C. 1716.05
Check cashing business operator	R.C. 1315.23
Chemical dependency professional	R.C. 4758.20, 4758.24, 4758.30
Child day-care center or type A or licensed type B family day-care home owner, employee, in-home aide, or resident	R.C. 5104.013, 5104.99
Chiropractor	R.C. 4734.20, 4734.23, 4734.26, 4734.27, 4734.286, 4734.31, 4734.34, 4734.35, 4734.36
Cigarette retailer and wholesaler	R.C. 5743.17 (repealed)
College-preparatory boarding school employee	R.C. 3328.18, 3328.19
Commercial fisher	R.C. 1533.342, 1533.641
Community-based long-term care services provider	R.C. 173.381, 173.391
Community (charter) school employee	R.C. 3314.101, 3314.40
Concentrated animal feeding facility installer or operator	R.C. 903.05
Consumer installment loan lender	R.C. 1321.64, 1321.70
Contractor – heating, ventilating, and air conditioner; refrigeration; electrical; plumbing; or hydronics	R.C. 4740.05, 4740.06, 4740.10
Controlling person, director, or executive officer of a foreign bank	R.C. 1119.05, 1119.08
Cosmetologist, esthetician, hair designer, manicurist, natural hair stylist, or instructor of any branch of cosmetology	R.C. 4713.28, 4713.30, 4713.31, 4713.34
Credit services organization	R.C. 4712.03
Crematory operator	R.C. 4717.051, 4717.14
Dentist	R.C. 4715.10, 4715.30
Dental hygienist	R.C. 4715.21, 4715.27, 4715.30
Department of Developmental Disabilities personnel who administer medications	R.C. 5123.452
Department of Public Safety enforcement agent (relating to the Supplemental Nutrition Assistance Program)	R.C. 5502.14
Deputy mine inspector of underground mines, deputy mine inspector of surface mines, electrical inspector of mines, superintendent or assistant superintendent of rescue stations, or mine chemist	R.C. 1561.12



Occupations affected by the bill's revised criminal offense licensing requirements	Citation
Deputy sheriff	R.C. 311.04
Dialysis technician or dialysis technician intern	R.C. 4723.092, 4723.24, 4723.28, 4723.281, 4723.34
Dietitian	R.C. 4759.06, 4759.07
Dispensing optician or dispensing optician apprentice	R.C. 4725.44, 4725.48, 4725.52, 4725.53
Driver training school operator	R.C. 4508.03
Driver training instructor	R.C. 4508.04, 4508.06
Educational assistant – educational aide permit or educational paraprofessional license	R.C. 3319.088
Educator license	R.C. 3319.225, 3319.292, 3319.30, 3319.31, 3319.311, 3319.313, 3319.39, 3319.40, 3319.52; 5126.253
Electrical safety inspector	R.C. 3783.03
Embalmer	R.C. 4717.05, 4717.14
Executive agency lobbyist	R.C. 121.621
Fireworks exhibitor	R.C. 3743.70, 3743.99
Fireworks manufacturer	R.C. 3743.03, 3743.04, 3743.70
Fireworks wholesaler	R.C. 3743.16, 3743.17, 3743.70
First responder, emergency medical technician (EMT), or paramedic; continuing education providers for first responders, EMTs, or paramedics	R.C. 4765.112, 4765.114 (repealed), 4765.17, 4765.18, 4765.301, 4765.55
Foreign real estate dealer or salesperson	R.C. 4735.27, 4735.28
Game protector	R.C. 1531.132
Gas storage well inspector	R.C. 1571.012
General x-ray machine operator, radiographer, radiation therapy technologist, or nuclear medicine technologist	R.C. 4773.03
Genetic counselor	R.C. 4778.03, 4778.06, 4778.14, 4778.19
Health care provider participating in the Bureau of Workers' Compensation Health Partnership Program	R.C. 4121.443
Hearing aid dealer, fitter, or trainee	R.C. 4747.04, 4747.05, 4747.10, 4747.12
High volume dog breeder or dog retailer	R.C. 956.03, 956.15
Home medical equipment provider	R.C. 4752.09



Occupations affected by the bill's revised criminal offense licensing requirements	Citation
Independent social worker, social worker, or social work assistant	R.C. 4757.10, 4757.27, 4757.28, 4757.29, 4757.36, 4757.361
Nonlicensed educator employed by a high-performing school district	R.C. 3302.151
Instructional assistant providing special education services to a child with autism	R.C. 3310.43
Insurance third-party administrator	R.C. 3959.12, 3959.13
Insurance agent	R.C. 3905.06, 3905.07, 3905.14, 3905.15
Landscape architect	R.C. 4703.34
Legislative agent (lobbyist)	R.C. 101.721
Liquor permit	R.C. 4301.25, 4303.29, 4303.292
Livestock dealer or broker	R.C. 943.03, 943.031, 943.05
Livestock weigher	R.C. 943.09
Loan originator	R.C. 1322.041, 1322.042, 1322.07, 1322.10
Long-term care facility owner or employee	R.C. 2903.37
Lottery sales agent	R.C. 3770.05
Manufactured home installer	R.C. 4781.09
Manufactured housing dealer, broker, or salesperson	R.C. 4781.21
Manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, or wholesale distributor of dangerous drugs	R.C. 4729.53, 4729.56
Marriage and family therapist	R.C. 4757.10, 4757.36, 4757.361
Medical marijuana cultivator, processor, or laboratory tester	R.C. 3796.03, 3796.09
Medical marijuana retail dispensary	R.C. 3796.04, 3796.10
Medication aide or community health worker	R.C. 4723.092, 4723.24, 4723.281, 4723.34
Metropolitan housing authority police officer	R.C. 3735.311
Mine forepersons of gaseous mines, nongaseous mines, or surface mines; forepersons of gaseous mines, nongaseous mines, surface maintenance facilities of underground or surface mines, or surface mines; fire bosses, mine electricians, surface mine blasters, or shot firers	R.C. 1561.23
Money transmitter	R.C. 1315.04, 1315.081, 1315.101, 1315.151



Occupations affected by the bill's revised criminal offense licensing requirements	Citation
Mortgage broker	R.C. 1322.022, 1322.023, 1322.04, 1322.07, 1322.074, 1322.10
Mortgage loan originator	R.C. 1321.532, 1321.537, 1321.54, 1321.59
Motor vehicle dealer or salesperson, vehicle leasing dealer, distributor, or auction owner	R.C. 4517.04, 4517.09, 4517.10, 4517.33
Motor vehicle salvage dealer, auctioneer, or pool	R.C. 4501.02, 4738.04, 4738.07, 4738.12
Municipal chief of police, police officer, or auxiliary police officer	R.C. 737.052
Natural resources law enforcement staff officer	R.C. 1501.013
Natural resources officer	R.C. 1501.25
Nursing home administrator	R.C. 4751.04, 4751.05, 4751.10, 4751.11
Occupational therapist or occupational therapy assistant	R.C. 4755.06, 4755.07, 4755.11
Operator of a vehicle for pupil transportation	R.C. 4511.76, 4511.761, 4511.762, 4511.77
Optometrist	R.C. 4725.12, 4725.19
Owner or operator of a solid waste facility, infectious waste treatment facility, or hazardous waste facility	R.C. 3734.42, 3734.44
Orthotist, prosthetist, or pedorthist	R.C. 4779.09, 4779.18, 4779.28
Pawnbroker	R.C. 4727.03, 4727.15
Peace officer (basic training certificate)	R.C. 109.77
Massage establishment (permit issued by a township)	R.C. 503.44, 503.46
Pesticide applicator or dealer	R.C. 921.23
Pharmacist, pharmacy intern, or pharmacy technician	R.C. 4729.08, 4729.09, 4729.16, 4729.42, 4729.90, 4729.96
Physical therapist or physical therapist assistant	R.C. 4755.47
Physician, massage therapist, or cosmetic therapist	R.C. 2919.17, 2919.18, 2919.201, 2919.203, 4731.09, 4731.19, 4731.22, 4731.223, 4731.281, 4731.291, 4731.292, 4731.296, 4731.52, 4731.573
Physician assistant	R.C. 4730.10, 4730.11, 4730.25, 4730.31
Pilot or engineer for a boat carrying passengers for hire	R.C. 1546.16
Police officer for a conservancy district	R.C. 6101.75



Occupations affected by the bill's revised criminal offense licensing requirements	Citation
Police officer for a qualified nonprofit corporation	R.C. 1702.80
Police officer for a private college or university	R.C. 1713.50
Police officer for a board of park commissioners	R.C. 1545.13
Precious metals dealer	R.C. 4728.03, 4728.13
Private investigator or security guard	R.C. 4749.03, 4749.04, 4749.06, 5502.011
Professional clinical counselor or professional counselor	R.C. 4757.10, 4757.22, 4757.23, 4757.36, 4757.361
Professional engineer or surveyor	R.C. 4733.11, 4733.20
Professional solicitor or member, officer, employee, or agent of a professional solicitor	R.C. 1716.07
Provider of supported living services	R.C. 5123.16, 5123.169, 5123.1611
Psychologist or school psychologist	R.C. 4732.10, 4732.17
Public accountant or certified public accountant	R.C. 4701.01, 4701.06, 4701.07, 4701.09, 4701.16
Public insurance adjuster	R.C. 3951.04
Radiologist assistant	R.C. 4774.03, 4774.06, 4774.13, 4774.15
Real estate appraiser or real estate appraiser assistant	R.C. 4763.05, 4763.06, 4763.11
Real estate broker or salesperson	R.C. 4735.07, 4735.09, 4735.10, 4735.13, 4735.18
Referee, judge, matchmaker, timekeeper, promoter, manager, trainer, contestant, or second of a boxing match or other unarmed combat sport	R.C. 3773.42, 3773.53
Regional transit authority police officer	R.C. 306.352
Registered nurse, advanced practice registered nurse, or licensed practical nurse	R.C. 4723.092, 4723.24, 4723.28, 4723.281, 4723.34, 5123.452
Residential care facility	R.C. 3721.07
Respiratory care professional	R.C. 4761.04, 4761.09, 4761.13
Retail sales vendor	R.C. 5739.99
Retirement system lobbyist	R.C. 101.921
Sanitarian	R.C. 4736.08
School bus or motor van driver	R.C. 3327.10
Scrap metal dealer or bulk merchandise container dealer	R.C. 4737.99



Occupations affected by the bill's revised criminal offense licensing requirements	Citation
Second mortgage lender	R.C. 1321.522, 1321.53, 1321.54, 1321.59
Secondhand, junk, or transient dealer, peddler, itinerant vendor, or pawnbroker	R.C. 2961.03
Short-term lender	R.C. 1321.37
Small loan lender	R.C. 1321.04
Special police officer employed by a financial institution, railroad company, hospital, amusement park, or company under contract with the U.S. Atomic Energy Commission	R.C. 4973.17, 4973.171
Special police officer employed by the Department of Developmental Disabilities	R.C. 5123.13
Special police officer of the Department of Mental Health and Addiction Services	R.C. 5119.08
Special regional heavy hauling permit	R.C. 4513.34
Speech-language pathologist or audiologist	R.C. 4753.10
State university law enforcement officer	R.C. 3345.04
STEM school employee	R.C. 3326.081, 3326.24
Surety bail bond agent	R.C. 3905.85
Surface or in-stream mining permit	R.C. 1514.99
Tax investigator	R.C. 5743.45
Telephone solicitor	R.C. 4719.02, 4719.03, 4719.08
Terminal distributor of dangerous drugs	R.C. 4729.55, 4729.552, 4729.553
Township chief of police, patrol officer, or other peace officer	R.C. 505.49
Township park officer	R.C. 511.232
Township police constable	R.C. 509.01
Traveling full time salaried noncommission employee of an attorney authorized to solicit powers of attorney or applications for contracts of indemnity and who is primarily engaged in underwriting or loss prevention engineering and claim services	R.C. 3931.11
Unclaimed funds finder	R.C. 169.16, 169.17
Veterans' home chief of police or police officer	R.C. 5907.021
Veterinarian or veterinary technician	R.C. 4741.12, 4741.22
Viatical settlement provider or broker	R.C. 3916.15



Occupations affected by the bill's revised criminal offense licensing requirements	Citation
Village marshal, deputy marshal, police officer, night watchperson, special police officer, or auxiliary police officer	R.C. 737.162
Wholesale fish handler	R.C. 1533.631, 1533.641
Wildlife shelter permit	R.C. 935.06

The following sections in the bill make changes to licensing restrictions applicable to individuals convicted of criminal offenses that affect more than one occupation:

- R.C. 109.572 – regarding offenses that must be included in a criminal records check for various licenses;
- R.C. 2919.123 – regarding sanctions for a professionally licensed person who unlawfully distributes an abortion-inducing drug;
- R.C. 2925.38 – regarding notice to a licensing authority if a professionally licensed person is convicted of a drug offense;
- R.C. 2929.42 – regarding notice to a licensing authority of a professionally licensed person's conviction of any criminal offense;
- R.C. 2929.43 – regarding the procedure for accepting a peace officer's guilty plea to or conviction of a disqualifying offense;
- R.C. 2953.25 – specifies that a certificate of qualification for employment does not create relief for an individual convicted of a disqualifying offense if the individual's license as a health care professional is denied or suspended (current law contains a similar provision);
- R.C. 3719.121 – removes a requirement that a licensing authority suspend a health care professional's license for a drug offense;
- R.C. 4743.06 (repealed) – removes the ability for certain licensing authorities to specify criminal offenses for which the authority can deny a license without a hearing;
- R.C. 4776.04 and 4776.10 (repealed) – regarding criminal records checks for applicants for certain licenses;
- R.C. 4776.20 – regarding procedures for licensees convicted of trafficking in persons.



Background checks and eligibility determinations

Under the bill, a licensing authority that is required by law to conduct criminal records checks before issuing a license to an individual may request that the criminal records check be limited to the list of disqualifying offenses that the licensing authority adopts pursuant to the bill rather than the list of offenses specified in the section requiring the criminal records check. If a licensing authority requests a criminal records check limited to the list of disqualifying offenses, the licensing authority is deemed to have complied with the law requiring the criminal records check.

The bill also permits an individual who has been convicted of any criminal offense to request, at any time, that a licensing authority determine whether the individual's conviction disqualifies the individual from obtaining a license issued or conferred by the licensing authority. The individual must include details of the criminal conviction. The licensing authority may charge the individual a fee, not to exceed \$25, to reimburse the licensing authority for the costs incurred in making the determination.

Not later than 30 days after receiving a request for a determination, the licensing authority must inform the individual whether the individual, based on the information submitted, is disqualified from receiving or holding the license about which the individual inquired. A licensing authority is not bound by the determination if, on further investigation, the licensing authority determines that the individual's criminal convictions differ from the information presented in the request. The bill requires each licensing authority to adopt any rules necessary to implement the bill's requirements concerning disqualifications from licensure for criminal convictions.⁷

Definitions

The bill defines the following terms:

"Adjusted gross income" has the same meaning as in the Ohio Income Tax Law.⁸

"Federal poverty line" means the official poverty guideline as revised annually in accordance with the "Omnibus Budget Reconciliation Act of 1981" for a family size equal to the size of the family of the person whose income is being determined.⁹

⁷ R.C. 9.79.

⁸ R.C. Chapter 5747.

⁹ R.C. 9.78(A).



COMMENT

Under Article XVIII, Section 3 of the Ohio Constitution, municipalities "have the authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws" (Home Rule authority). Municipalities have the power to license occupations under the police power granted under the Home Rule provision.¹⁰ The bill prohibits political subdivisions from imposing licensing and registration requirements on various occupations. With respect to at least some of the impacted professions, the bill may violate Home Rule amendment. The Ohio Supreme Court has previously invalidated statutory attempts to prevent political subdivisions from regulating various professions.¹¹ It is unclear whether the bill's other provisions (fee waiver and requirements concerning disqualifying offenses), violate Home Rule.

HISTORY

ACTION	DATE
Introduced	04-05-18

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¹⁰ See, e.g., *Village of West Jefferson v. Robinson*, 1 Ohio St.2d 113 (1965), and *Ohio Assn. of Private Detective Agencies, Inc. v. North Olmsted*, 65 Ohio St.3d 242 (1992).

¹¹ See *Cleveland v. State*, 138 Ohio St.3d 232, 2014-Ohio-86.

