

INSTITUTE FOR JUSTICE

Rep. Gayle Manning Blessing
Chairwoman
House Commerce & Labor Committee
77 South High Street
12th Floor
Columbus, OH 43215

October 22, 2019

Dear Chairwoman Manning:

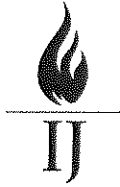
An honest living is one of the best ways to prevent re-offending. But Ohio's strict occupational licensing requirements make it harder for many ex-offenders to find work. In fact, Ohio is one of ten states where a criminal conviction of almost any kind can be used to disqualify applicants seeking a license to work.¹ Licensing restrictions impose a steep cost on the state's economy as a whole and can worsen recidivism.

One Institute for Justice study, *At What Cost?*, found that almost one million Ohioans are now licensed, or nearly one-fifth of the state's workforce. The breadth and burden of the state's licensing requirements resulted in over 67,000 fewer jobs and cost the state over \$6 billion in lost productivity and "misallocated resources" each year.²

Moreover, a recent study from Arizona State University found that states with more burdensome licensing laws saw their average recidivism rates jump by nine percent. By comparison, states with fewer licensing restrictions and no moralizing provisions had recidivism rates decline by 2.5 percent, on average. In fact, licensing burdens were second only to the overall labor market climate when it came to influencing recidivism rates.³

In a similar vein, the Center for Economic and Policy Research estimates that in 2014, employment barriers for the incarcerated and those with felony convictions cost the nation's economy up to \$87 billion in annual GDP, equal to losing 1.7 to 1.9 million workers. Drops in the employment rate were particularly acute for black and Hispanic men and for men with less than a high-school education.⁴

HB 263 would reverse these trends. If enacted as introduced, the bill would be one of the best reforms in the nation for people with criminal records seeking occupational licenses. First, HB 263 would only allow disqualification if an applicant's criminal record "directly relates to the licensed occupation." This direct-relationship test is both the most robust standard and most commonly used test, employed by 20 states and the District of Columbia. To further strengthen this test, agencies would be required to consider the amount of time elapsed since the offense was committed as well as any evidence of



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rehabilitation; more than half of the country already uses these two factors when considering license applications.

Moreover, HB 263 would ban licensing authorities from using vague, ambiguous standards like “moral turpitude” or “moral character” to disqualify applicants. Currently, only 10 states have similar laws on the books.⁵ Finally, the bill would ensure due process for applicants by requiring licensing authorities to bear the burden of proof and show by clear and convincing evidence that a person’s criminal record is directly related to the license.

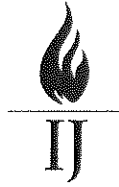
Although the bill is vastly superior to current law, there is still room for improvement. The bill should also ban boards from considering sealed and expunged records, in addition to arrest records that didn’t result in a conviction. HB 263 should also reduce the time limit for non-violent, non-sexual disqualifying offenses from five years to three years, as research has shown that recidivism rates peak within the first three years after release from prison.⁶ Finally, the bill should be expanded to include license suspension and revocation processes, rather than apply solely to the initial application stage.

As a public interest, civil liberties law firm, the Institute for Justice has worked through litigation, legislation, communications, and activism to end harmful and unnecessary licensing laws that block economic opportunity. In Ohio, we supported amended substitute SB 255 in the 132nd General Assembly, which allowed ex-offenders to petition a licensing board to determine if their criminal record would be disqualifying. The law also enacted robust sunrise and sunset reviews for proposed and existing occupational regulations. We encourage lawmakers to build on this landmark reform by implementing less restrictive alternatives to licensure. After all, fewer licenses means fewer ways for agencies to block the aspirations of workers and entrepreneurs.

The Institute for Justice applauds the House authors and co-authors for their leadership to reduce licensing barriers to for people with criminal records. We ask you and members of the committee to support HB 263. Thank you.

Yours Truly,

Nick Sibilla
Legislative Analyst



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¹ Alabama, Alaska, Idaho, Iowa, Nebraska, Nevada, Massachusetts, Rhode Island, and South Dakota. Pennsylvania and Vermont also allow disqualification based on unrelated felonies.

² Kleiner, M.M., & Vortnikov, E.S. (2018). *At What Cost? State and National Estimates of the Economic Costs of Occupational Licensing*. Arlington, VA: Institute for Justice. <https://ij.org/report/at-what-cost>

³ Slivinski, S. (2016). *Turning shackles into bootstraps: Why occupational licensing reform is the missing piece of criminal justice reform* (Policy Report No. 2016-01). Tempe, AZ: Center for the Study of Economic Liberty, Arizona State University. <https://research.wpcarey.asu.edu/economic-liberty/wp-content/uploads/2016/11/CSEL-Policy-Report-2016-01-Turning-Shackles-into-Bootstraps.pdf>

⁴ Bucknor, C., & Barber, A. (2016). *The price we pay: Economic costs of barriers to employment for former prisoners and people convicted of felonies*. Washington, DC: Center for Economic and Policy Research. <http://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf?v=5>

⁵ Arkansas, California, Illinois, Indiana, Kansas, Minnesota, Mississippi, New York, North Carolina, and West Virginia.

⁶ See Slivinski.