



# THE BUCKEYE INSTITUTE

## **Interested Party Testimony Before the Ohio Senate Transportation, Commerce and Workforce Committee on Senate Bill 293**

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**Greg R. Lawson, Research Fellow  
The Buckeye Institute**

Chairman LaRose, Vice Chair Kunze, Ranking Member Schiavoni, and members of the Committee, thank you for the opportunity to testify today regarding the need for regulatory reform in Ohio and Senate Bill 293.

My name is Greg R. Lawson. I am the research fellow at **The Buckeye Institute**, an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states.

The Buckeye Institute applauds the Senate for taking up regulatory reform in an effort to cut bureaucratic red tape. Ohio desperately needs regulatory reform that eliminates unnecessary regulations that strangle private industry and enterprise as part of the state's broader reform efforts to boost economic growth. If Ohio does not focus its regulations and rules on protecting the public from genuine harm, the state will continue to see slow growth and low prosperity.

Some regulations, of course, are essential for preserving public health and safety. No one wants doctors using unsterilized medical equipment, or inadequately trained engineers designing bridges, or toxic chemicals polluting our soil and waterways. Requiring appropriate education and training for physicians, healthcare providers, pilots, and truck drivers helps safeguard the general public in our hospitals and on our roads and runways. But the same cannot be said with respect to auctioneers, travel guides, and hairdressers—all currently subject to Ohio's byzantine and overly restrictive licensing requirements.

Occupational licensing restrictions present a growing problem at both the state and national level. In 2008, nearly 30 percent of the U.S. workforce was required to hold a license in order to go to work.<sup>1</sup> In 1970, that number was only 10 percent.<sup>2</sup> But even as the scope of occupational licensure has expanded, it is unclear that such licensure has added much value to or improved the quality of goods and services. Studies have shown, for example, that stricter licensure requirements have had little effect on the quality of care provided by dentists<sup>3</sup> or on the quality of service offered by flower arrangers.<sup>4</sup> That dentists are subject to licensing requirements is not troubling or surprising, but that flower arranging should require the state's permission slip is—which makes the lack of any noticeably improved quality all the more concerning.

And although some occupational licensing does indeed provide the public with some residual benefit, that benefit is not without cost. Expansive licensing schemes costs the community jobs.

Professor Morris Kleiner testified before the U.S. Senate Judiciary Committee that his research concluded that licensing laws cost between a half and one percent of jobs nationally in 2010.<sup>5</sup> Those seemingly small percentages amount to tens of thousands of unborn jobs across America

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<sup>1</sup> Morris M. Kleiner, *Occupational Licensing: Protecting the Public Interest or Protectionism?*, W.E. Upjohn Institute for Employment Research, July 2011.

<sup>2</sup> *Ibid.*

<sup>3</sup> Morris M. Kleiner and Robert T. Kudrle, *Does Regulation Affect Economic Outcomes?: The Case of Dentistry*, working paper, National Bureau of Economic Research, January 1997.

<sup>4</sup> Dick M. Carpenter, *Blooming Nonsense: Licensure and Consumer Protection*, *Regulation*, Spring 2011, Volume 34 Issue 1, p. 44-47.

<sup>5</sup> Morris M. Kleiner, *License to Compete: Occupational Licensing and the State Action Doctrine*, Testimony before the U.S. Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, February 2, 2016.

that never came into existence—a claim bolstered by research out of the Brookings Institute’s Hamilton Project revealing that stringent licensing requirements result in fewer providers of the services subject to the requirements.<sup>6</sup> Fewer providers means fewer employers and fewer available jobs.

Perhaps unsurprisingly, given Professor Kleiner’s findings, the Obama Administration released a detailed report in 2015 calling for nationwide reforms to occupational licensing.<sup>7</sup> Echoing bipartisan support for such measures, the Trump Administration’s Secretary of Labor has since recognized that:

“Americans want principled, broad-based reform. If licenses are unnecessary, eliminate them. If they are needed, streamline them. And, if they are honored by one state, consider honoring them in your own state. Americans looking to enter the workforce deserve no less than our most ardent efforts to remove regulatory barriers so that they can have a job.”<sup>8</sup>

Ohio, unfortunately, continues to contribute to the nation’s licensing crisis—and its economy and citizens suffer for it.

The Buckeye Institute’s report, *Forbidden to Succeed: How Licensure Laws Hold Ohioans Back*, showed not only that Ohio’s licensing burdens are more stringent than the national average, but also that nearly every Ohio license that requires training can be earned in less time in another state.<sup>9</sup> Our subsequent study, *Still Forbidden to Succeed: The Negative Effects of Occupational Licensing on Ohio’s Workforce*, confirmed the disturbing and stubborn fact that Ohio’s licensing requirements erect higher barriers to employment for those most in need of quality jobs: middle-aged and low-income workers, and those without a college degree.<sup>10</sup>

Our macroeconomic dynamic model, developed by economists at The Buckeye Institute’s **Economic Research Center**, revealed that Ohio’s licensing requirements have prevented more than 7,000 people between the ages of 25-45 from pursuing licensed occupations, and have discouraged people from migrating to Ohio to enter the job market. The model also showed that high licensing costs keep workers from good-paying professions, and suggests that without such costs more workers would find employment.<sup>11</sup>

Consider Jennifer McClellan. A new mother, a long-time professional, and a licensed massage therapist, Ms. McClellan tried moving back to Ohio to be closer to her family, but the Ohio State Medical Board denied her license application because she was 10 days shy of the state’s training

<sup>6</sup> Morris M. Kleiner, *Reforming Occupational Licensing Policies*, The Hamilton Project, March 2015.

<sup>7</sup> The White House, *Occupational Licensing: A Framework for Policymakers*, July 2015.

<sup>8</sup> Secretary of Labor Alexander Acosta, *Speech before the 44<sup>th</sup> Annual Meeting of the American Legislative Exchange Council*, U.S. Department of Labor, July 21, 2017.

<sup>9</sup> Tom Lampman, *Forbidden to Succeed: How Licensure Laws Hold Ohioans Back*, The Buckeye Institute, November 18, 2015.

<sup>10</sup> Orphe Pierre Divounguis, PhD, Bryce Hill, and Greg R. Lawson, *Still Forbidden to Succeed: The Negative Effects of Occupational Licensing on Ohio’s Workforce*, The Buckeye Institute, December 18, 2017.

<sup>11</sup> *Ibid.*

requirements.<sup>12</sup> The board unduly discounted years of training and work experience, and would not honor the license she had already earned in Minnesota.

Ms. McClellan is not alone. Ohio cosmetologists, for example, must complete 250 more hours of training than their peers in Pennsylvania and 500 more hours than hairdressers in New York.<sup>13</sup> Such onerous cosmetology training requirements become laughable when compared to the 150 hours of training required to be a state certified Emergency Medical Technician (EMT).<sup>14</sup> Requiring cosmetologists to have *10 times* the training of basic EMTs, makes the case for licensing reform as clear as can be.

Beyond occupational licensing reform, Ohio must also reexamine government mandates that interfere with market-pricing and make goods artificially more expensive for businesses. Such interference ultimately leads to slower job growth as businesses curtail hiring and wages in order to offset the artificially higher costs created by the mandates. Ohio's Renewable Portfolio Standard (RPS), for example, has a very limited effect on public safety, but a tragically negative effect on job creation and employment.<sup>15</sup>

Advocates of Ohio's RPS requirements assured that the standard would create jobs while making the environment cleaner and healthier. Unfortunately, as The Buckeye Institute's research has shown, the RPS actually results in *fewer* jobs across the state.<sup>16</sup> Using a realistic scenario, our dynamic macroeconomic model estimated that Ohio's current RPS could mean as many as 63,000 fewer jobs in Ohio by 2022.<sup>17</sup> Using even more conservative assumptions, the study estimated that the RPS will cost more than 25,400 people employment by 2022.<sup>18</sup> Renewable energy will undoubtedly play a larger role in the state and national energy mix, but Ohio's mandates make energy prices higher today and create significant red-tape hurdles for manufactures who are forced to spend more money to meet their energy needs and less on hiring.

Other academic research supports our concerns about the dire impact that regulations have on job creation. The Regulatory Studies Center at George Washington University, for instance, has noted that most empirical analyses find that regulation has a negative effect on entrepreneurship,<sup>19</sup> which should concern lawmakers because research also shows that first-year entrepreneurial start-ups have historically been net job creators even as existing businesses are net job destroyers.<sup>20</sup> Thus, regulations that harm entrepreneurship, harm job growth.

The Ohio Senate's more recent steps to improve the state's regulatory environment, such as Senator Uecker's Senate Bill 221 allowing the Joint Committee on Agency Rule Review to

<sup>12</sup> Greg R. Lawson, **Goodbye, Ohio. A Talented Massage Therapist Forced to Leave State Because of Crazy Licensing Rules**, The Buckeye Institute, February 29, 2016.

<sup>13</sup> Ohio Revised Code §4713.28.

<sup>14</sup> Ohio Administrative Code §4765-15-05.

<sup>15</sup> Orphe Divounguy, PhD., Rea S. Hederman, Jr., Joe Nichols, and Lucas Spitzwieser, **The Impact of Renewable Portfolio Standards on the Ohio Economy**, The Buckeye Institute, March 3, 2017.

<sup>16</sup> Greg R. Lawson, research fellow, The Buckeye Institute, **Testimony** Before the Ohio Senate Energy and Natural Resources Committee, June 6, 2018.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> Ana Maria Zarate Moreno, **Regulation, Innovation, and Entrepreneurship: A Review of the Literature**, Regulatory Studies Center, George Washington University, December 8, 2015.

<sup>20</sup> Tim Kane, **The Importance of Startups in Job Creation and Job Destruction**, Ewing Marion Kaufman Foundation, September 9, 2010.

conduct more immediate reviews of rules and their effects, and Senator McColley’s Senate Bill 255 reforming Ohio’s occupational licensing regime, are steps in the right direction.

Senate Bill 293 builds upon those efforts by requiring state agencies to review their existing rules and identify those rules that have regulatory restrictions that include the words “shall,” “must,” “require,” “shall not,” “may not,” and “prohibit.” When the Mercatus Center at George Mason University studied the use of these regulatory words and corresponding restrictions across multiple states, it concluded that Ohio compares poorly.<sup>21</sup> Despite some methodological limitations, the Mercatus Center study offers a rough quantification of the regulatory burden that the Ohio Administrative Code imposes on Ohioans.<sup>22</sup> Senate Bill 293 makes good use of the Mercatus study by requiring every state agency to take a closer look at its existing restrictions and then requiring them to prepare a base inventory of those restrictions in order to begin limiting and reducing their numbers.

Canada’s British Columbia adopted a similar policy creating a regulation inventory and then capping the maximum allowable regulatory restrictions.<sup>23</sup> Since 2001, British Columbia has reduced its regulatory restrictions by nearly 50 percent—and without endangering public safety.<sup>24</sup>

A comprehensive inventory of agency restrictions will give policymakers a clearer picture of where the state’s bureaucratic red tape truly lies; and a cap on regulatory restrictions will compel agencies and the General Assembly to carefully consider and prioritize any new restriction proposed. Senate Bill 293 advances the Senate’s yeoman’s effort to develop a meaningful process to methodically and thoughtfully reduce regulatory restrictions and burdens on all Ohioans.

Thank you for your time and consideration. I welcome any questions that the Committee might have.

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<sup>21</sup> James Broughel and Jonathan Nelson, **A Snapshot of Ohio Regulation in 2018**, Mercatus Center, February 26, 2018.

<sup>22</sup> The Mercatus study counts all restrictive words but does not distinguish between those restrictions that apply to Ohio citizens or businesses from those that apply to state agency actions and thus might actually prove beneficial. The study also does not distinguish between rules that are imposed strictly by the state from those that incorporate federally imposed mandates.

<sup>23</sup> **Regulatory and Service Improvement BC: How We Count**, Province of British Columbia (Last visited June 25, 2018).

<sup>24</sup> Ministry of Small Business and Red Tape Reduction and Responsible for the Liquor Distribution Branch, **Achieving a Modern Regulatory Environment: B.C.’s Regulatory Reform Initiative**, Province of British Columbia, 2017.

***About The Buckeye Institute***

*Founded in 1989, The Buckeye Institute is an independent research and educational institution – a think tank – whose mission is to advance free-market public policy in the states.*

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