



THE BUCKEYE INSTITUTE

**Interested Party Testimony Submitted to the Ohio
Senate Government Oversight and Reform Committee
on Senate Bill 329**

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Thank you, Chairman Coley, Vice Chair Seitz, Ranking Member Yuko, and members of the Senate Government Oversight and Reform Committee for the opportunity to testify regarding Senate Bill 329. This bill takes a welcome step toward improving Ohio's job market and making it easier for Ohio's working class families to prosper.

The Buckeye Institute, the Heritage Foundation, the Brookings Institute, and the Obama Administration do not often agree on an issue. But we all agree on the need to relieve the burdens created by bureaucratic occupational licensing that afflict workers and families with lower to middle incomes. By authorizing legislative panels to weed through Ohio's overgrown thicket of licensing boards, Senate Bill 329 gives lawmakers a much-needed tool for uprooting bureaucratic thistles that deprive Ohioans of the potential fruits of their labor.

No one disputes that state licensing requirements are needed in many cases and industries to help ensure public safety. Requiring appropriate education and training for physicians, healthcare providers, pilots, and truck drivers, for example, helps safeguard the general public in our hospitals, roads, and runways. But these concerns fade dramatically when applied to auctioneers, travel guides, and hairdressers—all of whom are subject to Ohio's byzantine licensing requirements.

Take Jennifer McClellan, for instance, a new mother, a long-time professional, and a licensed massage therapist who tried to move back to Ohio to be closer to her family.¹ Despite years of training and work experience in Minnesota, the Ohio State Medical Board denied Jennifer an Ohio license because, according to the Board, she was ten days shy of the state's training requirements. The Board failed to consider Jennifer's years of work experience and refused to honor the license she had already received in Minnesota.

Of course, as Jennifer McClellan learned, applying for and earning state licenses takes time and costs real, hard-earned money. According to the Heritage Foundation,

¹ Greg R. Lawson, "Goodbye, Ohio. A Talented Massage Therapist Forced to Leave State Because of

occupational licensing burdens costs the average U.S. household \$1,033 per year.² Recent research conducted by analysts across the political spectrum has revealed the sources of occupational licensing and the adverse impact that it has on the nation's job and labor markets. As part of the Brookings Institute's Hamilton Project, researchers discovered that much of the growth in occupational licensing requirements stems from professional associations and not from public interest groups.³ Not surprisingly, their research also showed that stringent licensing requirements result in fewer providers of the services subject to the requirements.⁴ The Obama Administration echoed these concerns in a July 2015 report issued by the White House that proposed a framework for reducing burdens on those seeking to enter the professional ranks.⁵ And last year, The Buckeye Institute released *Forbidden to Succeed: How Licensure Laws Hold Ohioans Back*, which showed not only that Ohio's licensing burdens are well above the national average, but also that nearly every Ohio license that requires training can be earned in less time in another state.⁶

The ladder to economic prosperity is hard enough to climb without the state making it even harder and more expensive. Fortunately, several provisions in Senate Bill 329 hand the General Assembly new tools for weeding out some of Ohio's most unnecessary and burdensome licenses. Senate Bill 329 codifies provisions that would automatically sunset cabinet agencies absent specific reauthorization. It authorizes the General Assembly to review Ohio's licensing boards and provides good guidance for how legislative committees should conduct their examinations. These provisions improve the status quo in which such reviews happen only during the fever pitch of the biennial budget process. Unfortunately, as written, Senate Bill 329 ultimately lacks the proverbial teeth to force state licensing boards to prove that they are essential for ensuring public safety rather than merely defending entrenched market interests. The bill could be strengthened by

² Salim Furth, "Costly Mistakes: How Bad Policies Raise the Cost of Living," The Heritage Foundation, November 23, 2015, <http://www.heritage.org/research/reports/2015/11/costly-mistakes-how-bad-policies-raise-the-cost-of-living>.

³ Morris M. Kleiner, "Reforming Occupational Licensing Policies," The Brookings Institute, March 2015, https://www.brookings.edu/wp-content/uploads/2016/06/THP_KleinerDiscPaper_final.pdf.

⁴ *Ibid.*

⁵ The White House, "Occupational Licensing: a Framework for Policymakers," July 2015, https://www.whitehouse.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf.

⁶ *Ibid.*

including sunset provisions for state licensing boards and commissions similar to the automatic provisions applied to cabinet agencies. Significantly, enacting such reform would help mitigate the risk of litigation that Ohio faces following the U.S. Supreme Court’s decision last year in *North Carolina Board of Dental Examiners v. Federal Trade Commission*. In that case, the Supreme Court held that when a controlling number of the decision-makers on a state licensing board are active participants in the occupation regulated by the board, then the board can only invoke state-action immunity if it is subject to the state’s active supervision. Many of Ohio’s licensing entities may now in fact violate federal anti-trust law, but enacting sunset provisions that would require affirmative reauthorization by the General Assembly may help satisfy the Court’s “active supervision” requirement.

Beyond weighing the risks of defending anti-trust lawsuits, Ohio policymakers should recognize what Jennifer McClellan’s case makes painfully clear: requiring workers to ask the government for permission to earn a living makes Ohio *less* competitive, *less* prosperous, and *less* attractive to entrepreneurs and their employees. And for a state still struggling to create new jobs, “less” is not more.

Ohio has come a long way since the Great Recession, but it has not yet rebounded from the tech bubble burst and remains down over 100,000 private sector jobs from its peak in March 2000.⁷ The state’s labor force participation rate has improved in recent months and is now slightly higher than the national rate, but just last year Ohio flirted ominously with historically low participation rates. So although Ohio’s job market continues slowly to improve, she still has a long way to go.⁸

Licensing requirements make finding a job more difficult. Every license requirement raises a red-taped hurdle for workers to clear before earning a living or starting a new career. Every hour of unpaid training needed to satisfy bureaucratic requirements is an

⁷ The Buckeye Institute, “Ohio by the Numbers – October, 2015,” The Buckeye Institute, accessed November 6, 2015, <http://buckeyeinstitute.org/uploads/files/ObN-2015-10.pdf>.

⁸ Ohio Department of Job and Family Services, “Ohio and U.S. Employment Situation- Seasonally Adjusted- June 2016,” Ohio Department of Job and Family Services, accessed September 12, 2016, http://jfs.ohio.gov/RELEASES/unemp/201607/Ohio-US_EmploymentSituation.stm.

hour not spent earning tips, impressing a boss, serving a customer, or opening a business. Those are hours of productivity, hours of opportunity that young, low-income workers sorely need, but that the state continues to take for itself.

Tragically, such burdens are borne no less lightly by those in Ohio's minority communities—communities already facing daunting employment prospects. Nationally, the unemployment rate among African Americans remains much higher than among other demographics. According to the Bureau of Labor Statistics, the unemployment rate last month was 8.1 percent for African Americans compared to 4.4 percent for whites.⁹ Similarly, unemployment confronts a staggering 26.1 percent of young African Americans between 16 and 19, and 14 percent of young whites.¹⁰ Unnecessary, protectionist licensing—that costs both time and money—only makes the job search for African Americans even harder.

Reforming Ohio's occupational licensing regime will help remove at least some of the burdens and obstacles to economic success, and Senate Bill 329 takes a valuable first step.

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

⁹ Bureau of Labor Statistics, "Table A-2. Employment Status of Civilian Population by Race, Sex, and Age," U.S. Department of Labor, accessed September 12, 2016 at <http://www.bls.gov/news.release/empsit.t02.htm>

¹⁰ *Ibid.*