



OHIO SALON ASSOCIATION

Proponent Testimony on Sub. HB 189
House Government Accountability & Oversight Committee
December 4, 2018

Chairman Blessing, Vice Chair Reineke, Ranking member Clyde and members of the House Government Accountability and Oversight Committee, thank you for the opportunity to provide **proponent testimony on Sub. HB 189**. My name is Tony Fiore and I serve as legislative counsel for the Ohio Salon Association.

I'm here to urge you to **pass the occupational licensure reforms** to Ohio's beauty industry contained in **Sub. HB 189**. We have worked diligently on the final changes contained in the substitute bill to address opponent concerns, address questions raised by House and Senate members, as well as provide greater protections for existing licensees and future students.

I've attached a **fact sheet** and a **myths busted** document that address many of the claims made by opponents. In addition to the proponent testimony the committee has received in the past, we've included a number of opinion editorials and letters to the editor from around the state published earlier this year.

I want to thank Rep. Bill Seitz for hosting an interested parties meeting on Thursday, September 13, 2018 to discuss 9 of the 10 changes included in **Sub. HB 189** listed below. While the proponents have continued to work toward addressing as many issues as possible since the bill was introduced on April 24, 2017, we have unfortunately received no constructive feedback from opponents to date even in light of the problems facing the industry.

The additional changes to the -5 version of Sub. HB 189 agreed to by proponents include:

1. **Changing the term "hair designer" to "hairstylist" throughout law** - to be consistent with other states' terminology.
2. **Reinserting all references to "natural hair stylist", "natural hairstylist schools", and "natural hair stylist instructors" throughout the statute** – to accommodate an opponent request from hearings this past spring.
3. **Requiring apprenticeship sponsors to report any costs to a student associated with the program similar to how public and private schools of cosmetology must report to the Ohio State Cosmetology and Barber Board** – at the request of Rep. Roegner and cosmetology schools.
4. **Making the apprenticeship program open to cosmetologists, hair stylists, estheticians and manicurists and limits the program length to 150% of the "mandated formal training"** - similar to a bill that Vermont just enacted in May 2018 (H.684) opening apprenticeship to all levels of cosmetology.
5. **Making sure the language in "hair stylists" cannot be construed as a full cosmetology license** – to accommodate an opponent from hearings this past spring.



Facts About HB 189/SB 129 May 31, 2018

Education

- **House Bill 189 (HB 189)** and **Senate Bill 129 (SB 129)** seek occupational licensure reforms to Ohio's cosmetology industry, including equalizing the number of required hours for private cosmetology schools and public vocational education programs at **1,000 hours**.
- Government should mandate only the minimum number of hours needed to ensure safe and sanitary cosmetology practices. HB 189 maintains that necessary training at **1,000 hours**.
- In late May 2018, Vermont Governor Phil Scott signed a bill ([H.684](#)) similar to and **validating Ohio's cosmetology bills**. The Vermont legislation sets the state's minimum formal training at 1,000 hours (down from 1,500) for cosmetologists and creates an apprenticeship program for students as well.
- Private cosmetology schools currently require **1,500 training hours** and tuition between **\$15,000 to \$30,000**, producing a substantial economic barrier to entry. The average cosmetology graduate accumulates up to **\$25,000 in debt**.
- Public vocational schools in Ohio already require around **1,000 cosmetology-specific training hours** and produce cosmetology graduates who enter the salon workforce at similar rates and success as private cosmetology school graduates.
- Students **remain eligible** to apply for financial aid for cosmetology programs requiring between 600 and 1,000 hours according to the [General Standards of Student Eligibility for Title IV Funds](#) published by Federal Student Aid, an office of the U.S. Department of Education.
- EMTs require only **150 hours** of training, police officers **695 hours** and licensed practical nurses **1,376 hours** of training, far less than students in Ohio's private cosmetology schools.
- Salon owners and a national study find that more time in school does not make students more ready to perform their jobs. And regardless of training hours required, students must still pass a **licensing exam** to become a working cosmetologist.
- The legislation also includes a provision for **pre-graduate testing**, allowing students to take the state licensing exam prior to finishing classes so students **more quickly enter the Ohio workforce** upon graduation.
- Illinois **recently passed** a similar bill ([HB 4883](#)) validating Ohio's provision, allowing its cosmetologists, estheticians and nail technicians to take their respective licensing exams prior to completing the required study hours.
- Ohio's more than 13,000 salons generate **\$1.6 billion** in annual revenue. [HB 189/SB 129](#) seeks to remove burdensome education and employment barriers to help Ohio employers find the talent they need to succeed and grow, while allowing graduates to quickly enter the workforce with less debt.



Health and Safety


- The proposed 1,000-hour requirement includes, for the first time, a **statutorily mandated minimum of 26 hours** of safety, health and infection control training, **10 hours** of hair and scalp disorders and diseases training and continuing education dedicated to safety and sanitation.
- Nothing prevents schools from offering additional health and safety training throughout the remaining education hours.
- There are currently around 8,500,000 Ohio citizens over the age of twelve. The average person in that demographic visits a barber shop/beauty salon approximately 6 times per year, or 51,000,000 visits to salons and barber shops in Ohio annually. There are not the life threatening occurrences in beauty salons/barber shops suggested by opponents, because salon owners and licensees are, and will be, well-trained and take their obligation to the public very seriously.

Apprenticeship Opportunities

- More than **30 percent** (or 28 schools) of private cosmetology schools have closed in the past three years, leading to a decline in the number of available workers and educational opportunities for this in-demand occupation. We anticipate this number **continuing to grow** due to U.S. Department of Education [Gainful Employment Act](#) disclosures, requiring any non-degree program offered by non-profit or public institutions and all educational programs offered at for-profit institutions to lead to gainful employment.
- [HB 189/SB 129](#) create an **apprenticeship option** based on a successful European model that allows students to **earn a wage while learning** the skills needed for a successful cosmetology career.
- The Vermont legislation ([H.684](#)) signed into law by Governor Phil Scott creates an apprenticeship program as well.
- An apprenticeship is an especially important option in parts of the state where cosmetology schools have closed, since Ohio's salons rely on the schools to train workers. **Nearly a third** of private cosmetology schools have closed in the past three years.
- Ohio would become the **21st state** to have this provision for apprenticeship programs.

License Reciprocity

- Ohio becomes **more competitive** with other states, because [HB 189/SB 129](#) makes it unnecessary to take a licensing exam in Ohio if licensed in another state and permits work experience in other states to count toward Ohio licensing hours. Like obtaining a driver's license after a move, cosmetology workers would more easily and quickly be licensed and available to take on new jobs in Ohio.
- By reforming over-burdensome licensing laws that reduce barriers to workforce entry, [HB 189/SB 129](#) support [Ohio's Attainment Goal 2025](#), which includes having **65 percent** of Ohioans ages 25 to 65 achieve a credential, license or degree by 2025. ([Ohioans are currently at 43% of that attainment goal.](#))
- Just as drivers who move to Ohio aren't automatically required to take a test in order to get an Ohio drivers license, cosmetologists licensed in another state shouldn't have to take another test to work here.

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- Similar to [HB 189/SB 129](#), the new Vermont law ([H.684](#)) also provides license reciprocity, without examination, for out-of-state cosmetologists if they are licensed or certified in good standing in another state and the other state's licensure requirements are substantially similar to Vermont's or materially less rigorous if the person has 1,500 documented hours of practice for at least 1 year.

Natural Hair Stylist license and Minority-Owned Businesses

- The Natural Hair Stylist license would **remain** in [HB 189/SB 129](#).
- However, the Natural Hair Stylist license isn't often utilized. In 2017, there were just five active licenses and one new natural hair stylist license, and only 14 active and four newly-licensed natural hair stylist salons. However, that license will remain in these bills.

Provisions for Barbers

- These bills **do not** reduce the initial barber license hour requirements below 1,800.
- By way of comparison, there are roughly eight states now providing barber programs for 1,000 hours or less. This includes a new Vermont law (H.684), which lowers barber training hours from 1,000 to 750 and provides for a 1,500-hour apprenticeship track.
- The bills include two provisions affecting barbers, and both are to the **barbers' benefit**:
 - Barbers who wish to also obtain a cosmetology license would now need fewer training hours before sitting for the licensing exam.
 - Barbers would still be the only service providers allowed to provide straight razor shaving.

Additional Opportunities for salon owners and customers

- [HB 189/SB 129](#) also add provisions that permit mobile salons and on-location cosmetology services, introducing **more options** to consumers and opportunities for entrepreneurs.
- 47 percent of salon businesses in Ohio are minority-owned and 77 percent of salon businesses are owned by women. [HB 189/SB 129](#) will help these owners by ensuring they can find the talent and resources they need to grow their businesses.



OSA

OHIO SALON ASSOCIATION

Myths and Facts about HB 189/SB 129

May 31, 2018

1. Myth

Public school cosmetology students and those who receive training at private schools are treated the same under Ohio law.

Busted!

Ohio law today treats students very differently depending where they pursue an education in cosmetology. Private school students must complete 1,500 hours of cosmetology-specific training before taking the state licensing exam, whereas public school students are required to take only 1,000 hours of cosmetology-specific training. This is true despite evidence that public school students do just as well on the licensing exam and in the workplace as private school students.

2. Myth

HB 189 and SB 129 are sponsored by big chain salons who are interested staffing their shops more than they are in the quality of their cosmetologists.

Busted!

Salons of all sizes support these bills because they would put more Ohioans into good jobs throughout Ohio. They would do this by removing unnecessary barriers to education and employment, helping employers find the skilled talent they need to succeed and grow, promoting effective and efficient job training for in-demand occupations, and creating an apprenticeship option for cosmetology students to earn a wage while learning about the beauty industry.

3. Myth

Students will not qualify for student financial aid if House Bill 189 and Senate Bill 129 becomes law.

Busted!


Students **remain eligible** to apply for financial aid for cosmetology programs requiring between 600 and 1,000 hours according to the [General Standards of Student Eligibility for Title IV Funds](#) published by Federal Student Aid, an office of the U.S. Department of Education.

4. Myth

It's easy for a cosmetologist licensed in another state to take a job in Ohio.

Busted!

Under current law, someone licensed in another state gets very little credit for their experience. While a new rule currently provides a waiver for some out-of-state cosmetologists looking to transfer a license to Ohio, those are complicated to obtain and require at least a year experience immediately prior to a move. Otherwise, they must instead receive duplicative training and take another licensing exam, even if they were successful in another state.



HB 189/SB 129 would give Ohio transfers credit toward Ohio's training hours requirement according to their experience and would not require them to sit for Ohio's licensing exam. Like obtaining a driver's license in a new state, this would more quickly and easily allow cosmetology workers to obtain jobs in Ohio. This is particularly important in Ohio communities near the state border, where people often live in one state and work in another.

5. Myth

Reducing the hours required to sit for a licensing exam will particularly hurt women of color, who will lose protections designed to provide safe and consistent salon services in Ohio.

Busted!

Career tech programs in Ohio's public high schools teach full cosmetology skills in around 1,000 hours and produce thousands of graduates that practice in Ohio today. The legislation requires robust health and safety training, including 26 hours of safety, health and infection control training; 10 hours of hair and scalp disorders and diseases training; and a minimum of one hour dedicated to safety and sanitation in continuing education every two years. Further, 1,000 hours of training is still more than those required for many Ohio licenses in safety-related professions, including emergency medical technicians, police officers and paramedics. Tattoo artists receive no training on how to handle blood, though they handle it every day.

Moreover, efforts in other states are underway to lower occupational licensure hurdles. In fact, on May 21, 2018, Vermont Governor Phil Scott signed a bill ([H.684](#)) similar to and **validating Ohio's cosmetology bills**. The Vermont legislation sets the state's minimum formal training at 1,000 hours (down from 1,500) for cosmetologists and creates an apprenticeship program as well for students to earn a wage while learning their trade. It's time for Ohio to do the same.

6. Myth


Reducing from 1,500 to 1,000 the number of hours private school cosmetology students must take to qualify for the state licensing exam will result in ill-prepared cosmetologists and increased health and safety hazards in Ohio salons.

Busted!

Reducing the number of hours establishes a level of consistency between private and public cosmetology schools while at the same time making cosmetology education more affordable and accessible. It also enables students to move into the workforce more quickly at a time when these jobs are in high demand.

Ironically, the state of Ohio mandates **fewer or similar hours** of training for highly skilled professions such as police officers, licensed practical nurses and emergency medical technicians. The industry also accepts 1,000 hours of cosmetology-specific training as adequate training for public school students at Ohio vocational technical centers. Reducing the number of hours required for private school students puts them on an even playing field with public school students and removes a major barrier to entry into the profession.

Moreover, the legislation includes a provision for pre-graduate testing, allowing students to take the state licensing exam prior to finishing classes, so students **more quickly enter the Ohio workforce** upon graduation. Illinois **recently passed** a similar bill validating Ohio's provision, allowing its cosmetologists, estheticians and nail technicians to take their respective licensing exams prior to completing the required study hours.



The Ohio State Cosmetology and Barbering Board staff and inspectors do an admirable job of conducting random inspections, receive complaints through its 1-800 tip line and crack down on bad actors across the state.

There are currently around 8,500,000 Ohio citizens over the age of twelve. The average person in that demographic visits a barber shop/beauty salon approximately 6 times per year, or 51,000,000 visits to salons and barber shops in Ohio annually. There are not the life threatening occurrences in beauty salons/barber shops suggested by opponents, because salon owners and licensees are, and will be, well-trained and take their obligation to the public very seriously.

Finally, the legislation requires, for the first time, a statutorily mandated minimum of 26 hours of safety, health and infection control training; 10 hours of hair and scalp disorders and disease training; and continuing education every two years related to safety and sanitation.

7. Myth

The legislation de-emphasizes formal education in favor of apprenticeships for stylists.

Busted!

In many professions, a combination of formal education and apprenticeships is an ideal educational approach because it provides workplace experience and earnings while completing crucial classroom training. The apprenticeship model outlined in [HB 189](#) and [SB 129](#), based off a very successful European model, motivates schools and salons to work together on the initial 200 hours of education/training and allows apprentices to **earn while they learn** during 1,800 hours of hands-on training. Many private cosmetology schools have closed in Ohio, with rural areas being affected the most.

An apprenticeship is a viable alternative when access to schools is limited and recognizes that most of what a cosmetologist learns occurs on the job. More than a third of states authorize apprenticeships, including Vermont, which just **validated Ohio's cosmetology bills**, setting the state's minimum formal training at 1,000 hours (down from 1,500) for cosmetologists while creating an apprenticeship program. In fact, Ohio would become the **21st state** to include this provision.

8. Myth

The bill de-emphasizes enforcement of state law by reducing fines, making it easier for salons and cosmetology professionals to break the law with few consequences.

Busted!

HB 189 and SB 129 simply reflect changes in penalties instituted by the Ohio State Cosmetology and Barbering Board over the last few years.

9. Myth

The legislation dangerously allows cosmetologists to shave male customers in Ohio salons, even though the skill is taught only in Ohio barber schools.

Busted!

Anybody today can go to the store and buy a safety razor for personal grooming. There is no reason why cosmetology professionals should be prohibited from performing grooming services with a disposable safety razor while barbers retain sole authority to use a straight razor.



10. Myth

Elimination of natural hair licenses would leave African-American women who wear natural hair unprotected against those with no training in an unregulated marketplace.

Busted!

While this license is seldom used and, at 450 hours of training, is burdensome, the Natural Hair Stylist license would remain in [HB 189/SB 129](#). The license WOULD NOT be eliminated. According to the State Cosmetology and Barber Board's 2017 Annual Report, there were only five active licenses and one new natural hair stylist license that year; one active and one new natural hair stylist instructor license; 34 active and 45 new advanced natural hair stylist licenses; and 14 active and four newly licensed natural hair stylist salons. The Ohio General Assembly in 2015 also created the boutique service registration for braiders in order to get these professionals out of the shadows of an underground economy.

11. Myth

Getting rid of the advanced license deregulates our profession.

Busted!

Ohio's advanced license doesn't provide students with marketable skills that result in higher wages. Further, it's not recognized in other states. Nothing prevents schools from offering advanced courses or as many hours of classes as they want. However, private schools now combine the initial license, requiring 1,500 hours, with the advanced license, at 300 hours, requiring students seeking an advanced license to complete an 1,800-hour program. This is unsustainable. The OSA supports changing the bill in the Senate to preserve the advanced license for those who hold it on the effective date of the bill, so they can indefinitely renew it.

12. Myth

HB 189 and SB 129 will also reduce the hours required to obtain an initial barbers license below 1,800.

Busted!

These bills **do not reduce** the initial barber license hour requirements. In fact, the bills only include two provisions affecting barbers, and both are to their benefit. Barbers who wish to obtain an additional license – such as a cosmetology license – would now need fewer training hours before sitting for the licensing exam. The bills also include a provision ensuring barbers will still be the only service providers permitted to provide straight razor shaving for customers.

13. Myth

This legislation favors the operations of the large national salon chains. Many conglomerate salons are moving into Ohio and threatening Ohio's homegrown, smaller and more numerous salons.

Busted!

Nationally branded salons are actually small local businesses. These local small businesses pay franchise fees to the national brand for using their brand. The local business owner pays wages, workers compensation, and unemployment in Ohio – not to the national chain. Nationally branded salons are a great place for new employees to work as they provide the opportunity for health care, vacation and personal leave and retirement savings options, all while gaining experience in the profession. Nationally branded salons also provide a career path for licensee-employees which will set them up for success at higher levels such as supervisory, managerial or home office promotions.

14. Myth

Ohio salons, mostly small entrepreneurial women-owned firms, rely on thorough licensing training to hire quality practitioners. These small firms cannot afford the additional infrastructure required if the training hours for licensing are reduced.

Busted!

Salons already provide on-the-job training for new employees. There is no skill difference in licensees coming out at around 1,000 hours from high school career tech programs and those at 1,500 hours from private schools and adult training programs. Changing the hours requirement to a floor not a ceiling will allow students to obtain jobs faster which will give business owners more candidates to choose from. The argument simply can't be made that the 1000 hours will produce poorly trained individuals, because Ohio's public schools have been producing qualified and successful students at around 1000 hours for many years.

Independent salons are more progressive than indicated. These are committed, savvy local owners that are very capable and use online resources provided by manufacturers, professional organizations and their peers. The availability of top-notch continuing education is at the fingertips of every beauty professional. The salon industry is known for its vast amount of education through hair shows, career fairs, events, seminars and conferences.

15. Myth

Less training would mean entry-level cosmetologists losing negotiating power leading to lower wages and reduced benefits.

Busted!

There is no data to support this claim. What's important is that the state is not imposing an insurmountable barrier to entry into a profession where safety and sanitation should be the chief regulation and requirement.

According to the [U.S. Bureau of Labor Statistics](#) the median hourly wage for hairdressers, hairstylists and cosmetologists was \$11.95 in May 2017. Wages are not dictated by cosmetology hours, but rather by the market cost of labor, cost of living and the overall workplace reality. Below is a list of the mean wages in states with their correlating hours, and it is clear there is no discernable pattern or significant difference that can be attributed to training hours.

District of Columbia	1,500	\$21.96
Delaware	1,500	\$17.09
Hawaii	1,800	\$16.17
Washington	1,600	\$19.56
Massachusetts	1,000	\$17.99
New Jersey	1,200	\$18.10
Virginia	1,500	\$17.82
Connecticut	1,500	\$16.29
New York	1,000	\$15.74
Maryland	1,500	\$15.16
Vermont	1,000 (2019)	\$16.24

There have been many references to a \$10/hour rate and a belief that hourly pay rates are higher in states requiring more training hours. Five states with required training hours between 1,000-1,250 hour states and their wages are as follows, as compared to Ohio:

Massachusetts	1,000	\$17.99
New York	1,000	\$15.74
Florida	1,200	\$15.37
New Jersey	1,200	\$18.10
Pennsylvania	1,250	\$12.77
Ohio	1,500	\$12.84

16. Myth

Larger salons often focus corporate training on in-house operations, not on the widely accepted safety and service standards in Ohio's current licensing program, thus further reducing the cosmetologist's marketability across the industry.

Busted!

Nationally branded salons would not be as successful as they are if they were dangerous and provided sub-par on-the-job training.

Public schools of cosmetology already graduate students who pass the current state exam at around 1,000 hours, and small salons are already currently hiring students who have around 1,000 hours of training.

No one who enters a profession is perfectly trained to handle all situations that come up while on the job. Once the basic education is mastered to ensure that safety, sanitation and basic skills are possessed by the licensee, then job experience is vital to perfecting the craft.

Internship and apprenticeship programs are provided for in [HB 189/ SB 129](#) which expose the student to the work environment to allow them to gain valuable experience while earning a wage. This is invaluable in rural and other less populated areas where it is difficult to get experience.

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28 Private Schools of Cosmetology have closed in Ohio since May 2015 (or 30% fewer than 3 years ago)

WESTERN HILLS SCHOOL OF BEAUTY & HAIR DESIGN 6490 GLENWAY AVE CINCINNATI, OH 45211 Closed 4/22/2018	CAROUSEL OF MIAMI VALLEY BEAUTY COLLEGE 7809 WAYNETOWN BLVD HUBER HEIGHTS, OH 45424 CLOSED 9/6/2016	OHIO STATE SCHOOL OF COSMETOLOGY 5970 WESTERVILLE RD WESTERVILLE, OH 43081 CLOSED 12/2016 <i>+ Hilliard closure</i>
B FABULOUS NAIL ACADEMY 2234 E 55TH ST CLEVELAND, OH 44103 Closed 1/12/2018	REGENCY BEAUTY INSTITUTE 1912 BUCHHOLZER BLVD AKRON, OH 44310 CLOSED 9/28/2016	SUMMIT SALON ACADEMY 3330 PARKCREST LANE CINCINNATI, OH 45211 CLOSED 10/21/2016
Ohio Cosmo Beauty Academy 1113 Upper Valley Pike Springfield, OH 45504 Closed 3/1/2018	REGENCY BEAUTY INSTITUTE 4450 EASTGATE BLVD STE 260 CINCINNATI, OH 45245 CLOSED 9/28/2016	TRI COUNTY BEAUTY COLLEGE 155 NORTHLAND BLVD CINCINNATI, OH 45246 CLOSED 7/31/2017
OHIO COSMO BEAUTY ACADEMY LLC 6322 EAST LIVINGSTON AVE REYNOLDSBURG, OH 43068 Closed 3/30/2018	REGENCY BEAUTY INSTITUTE 155 GRACELAND BLVD COLUMBUS, OH 43214 CLOSED 9/28/2016	THE ARTISAN COLLEGE OF COSMETOLOGY LLC 1645 TIFFIN AVE FINDLAY, OH 45840 CLOSED 12/11/2017
GEORGIE INTERNATIONAL BEAUTY INSTITUTE 69 GRAHAM RD STE A CUYAHOGA FALLS, OH 44223 Closed 3/22/2018	REGENCY BEAUTY INSTITUTE 2040 MIAMISBURG CENTERVILLE RD DAYTON, OH 45459 CLOSED 9/28/2016	MIAMI-JACOBS CAREER COLLEGE 875 CENTRAL AVE SPRINGBORO, OH 45066 CLOSED 2/2017
EASTERN HILLS ACADEMY OF HAIR DESIGN 7681 BEECHMONT AVE CINCINNATI, OH 45255 CLOSED 5/2015	REGENCY BEAUTY INSTITUTE 1554 SPRING MEADOWS DR HOLLAND, OH 43528 CLOSED 9/28/2016	MIAMI-JACOBS CAREER COLLEGE 865 W MARKET ST TROY, OH 45373 CLOSED 2/2017
CAROUSEL BEAUTY COLLEGE 125 E 2ND ST DAYTON, OH 45402 CLOSED 9/6/2016	REGENCY BEAUTY INSTITUTE 5535 DRESSLER RD UNIT 9 CANTON, OH 44720 CLOSED 9/28/2016	MIAMI-JACOBS CAREER COLLEGE 6400 ROCKSIDE RD INDEPENDENCE, OH 44131 CLOSED 11/2017
CAROUSEL BEAUTY COLLEGE 1475 UPPER VALLEY PK RM 956 SPRINGFIELD, OH 45504 CLOSED 9/6/2016	REGENCY BEAUTY INSTITUTE 26508 LORAIN RD NORTH OLMSTED, OH 44070 CLOSED 9/28/2016	MERRILLVILLE BEAUTY ACADEMY 20880 SOUTHGATE PARKWAY MAPLE HEIGHTS, OH 44137 CLOSED 7/29/2016
CAROUSEL BEAUTY COLLEGE 633 S BREIEL BLVD MIDDLETOWN, OH 45044 CLOSED 9/6/2016	REGENCY BEAUTY INSTITUTE 11489 PRINCETON PIKE SPRINGDALE, OH 45246 CLOSED 9/28/2016	<i>Vanity Schools Sheffield Village</i> } <i>ELONATE</i>
CAROUSEL BEAUTY COLLEGE & THE SPA INSTITUTE 3076 WOODMAN DR KETTERING, OH 45420 CLOSED 9/6/2016	REGENCY BEAUTY INSTITUTE 34999 EUCLID AVE UNIT 25 WILLOUGHBY, OH 44094 CLOSED 9/28/2016	<i>Toledo</i> - <i>not accepting new students</i>

Opinion

Charles A. Penzone: Bills would get more cosmetologists into workforce

Sunday

Posted Apr 8, 2018 at 5:00 AM

In Ohio, you can be an emergency medical technician after completing 800 hours of training, a police officer after 695 hours and a licensed practical nurse after 1,376 hours.

And to sit for a licensing exam to cut hair? Would you believe 1,500 hours of training?

Two bills are making their way through the Ohio General Assembly — House Bill 189 and Senate Bill 129 — that would reduce burdensome training requirements for those who want to work in Ohio’s cosmetology industry. Both represent common-sense changes designed to put qualified people to work in good, in-demand jobs, more quickly. These changes are necessary, especially when employment of barbers, hairstylists and cosmetologists is projected to grow 13 percent from 2016 to 2026, faster than the average for all occupations, according to the U.S. Bureau of Labor Statistics.

As a salon owner for the past 50 years, I know how important it is to find qualified, well-trained professionals and how difficult it can sometimes be. Lowering the number of hours to 1,000 for students in all cosmetology schools has been supported by private schools of cosmetology, salon owners and licensees, and groups such as the Ohio Salon Association, The Institute for Justice, the Ohio Chamber of Commerce, the National Federation of Independent Businesses and The Buckeye Institute.

Those who get their training in vocational centers as part of a public high school education only receive around 1,000 hours of cosmetology specific training. Independent research has shown no justification for training in excess of the 1,000-hour mark before a cosmetologist begins working. Additional education is a good thing when it does not prevent someone from entering an industry.

These bills also make it easier to begin working in Ohio if you’re licensed in another state by allowing work elsewhere to count toward Ohio licensing hours and removing the requirement that cosmetologists licensed in another state sit for the Ohio exam. It further helps encourage state-to-state license endorsement by changing from an Ohio-only licensing exam to a national exam that is approved and used throughout the country. A cosmetology license in Ohio will be treated much like a driver’s license, which makes it easy to come to work here.

Updating the licensing requirements also has practical benefits for students. It not only encourages them to finish their programs by eliminating a strong source of frustration — the excessive time it takes to complete

them — but it also lowers the student loan debt the student will be burdened with as he or she starts working. In fact, students leave private cosmetology schools with between \$15,000 and \$30,000 in debt. Less time in school should equate to less student loan debt.

Cosmetologists have the potential to make more than \$100,000 annually after five to 10 years in the profession. But keeping them in a training program paying tuition for an additional 500 hours delays their accomplishment of their professional and financial goals.

Finally, the bills include criteria for allowing some students to fulfill part of their licensing requirement through apprenticeships, where they learn through hands-on, paid work under the tutelage of an experienced supervisor while still being required to complete additional classroom training. Salon owners rely on public and private cosmetology schools to produce the next generation of cosmetology licensees, but if private schools continue closing their doors (30 percent since May 2015), salon owners need the ability to sponsor apprenticeship programs to train their future workforce.

These bills don't eliminate the teaching of skills needed for professionalism, safety and health; they update them to make sense in today's job market. They also don't change the fact that cosmetologists need continuing education and training throughout their careers — cosmetologists still will need eight hours of professional education every two years to stay current.

I want to employ good people, provide good service and make my customers happy. Either of these bills would make it easier for me to find the people I need, when I need them, while removing barriers of entry for those who want to make their living in a professionally satisfying industry.

The General Assembly should pass these common-sense measures now.

Charles A. Penzone is founder and chairman of Charles Penzone Inc.

The Columbus Dispatch

Opinion

Letter: Bills would benefit women, minorities

Posted at 12:01 AM

Updated at 6:38 AM

Charles Penzone was absolutely right in his April 8 op-ed "Bills would get cosmetologists into workforce."

In Ohio, an EMT who makes life and death decisions receives less training than a cosmetologist in whose hands you place your hair. This is ridiculous and illustrates why Ohio needs to expand opportunities for women and minorities and remove barriers to employment.

Becoming a cosmetologist gives women and minorities — who compose the overwhelming majority of those in the industry — control over their own lives. That is why opposition to removing barriers for these people is so misguided.

It is shocking that opponents of reform, mostly for-profit schools, want to stop young people from getting hired more quickly while heaping mounds of debt on their shoulders and crushing their opportunities.

Policies harming the career opportunities for women and minorities in Ohio need to end. Helping cosmetologists is a good place to start. But it is only a start. There is much more to be done to expand the opportunities for success in Ohio and remove barriers to employment.

Quinn R. Beeson, The Buckeye Institute

Columbus

POSTED ON [APRIL 21, 2018](#)

1. Letter: Cosmetologists support change

LETTERS

The April 13 story concerning Senate Bill 129 (“Huffman tours Lima beauty school”) reported on opposition to the bill while practically ignoring why Ohio Salons, cosmetologists and even schools support changes in the law.

First of all, there are not enough skilled cosmetologists to fill all the jobs available in Ohio. This is due to the significant number of private cosmetology school closings over the past few years and the barriers to entry erected by state licensing laws. I can speak from experience in this regard as a private school owner in the Lima area from 2002 to 2008. One of these barriers falls unfairly on private school students, who are forced to complete 1,500 hours of training while public vocational school students are considered fully trained after about 1,000. Never mind that success on the state cosmetology licensing exam and in the workplace is virtually identical for both private- and public vocational-school students.

Those who fear SB 129 and HB 189 will lead to lax health and safety measures in salons haven’t read the bills. Both are explicit about the need to maintain high standards and include 26 hours of safety, health and infection control training; 10 hours of hair and scalp diseases training; and ongoing continuing education specifically for safety.

SB 129 and HB 189 provide the training necessary for students to be successful, remove unnecessary barriers, and help salons of all sizes find the highly skilled cosmetologists needed to fuel the economy and grow their businesses.

Greg Stolly, Lima

Former Owner, The Ohio State Beauty Academy

CRAIN'S
Cleveland Business

Northeast Ohio's premier source for business news

Originally Published: April 29, 2018 4:00 AM Updated: A day ago

Letters to the editor: April 30, 2018

Regulatory overhaul needed in cosmetology

I am a licensed hair stylist, business owner and educator with three decades of experience in the beauty industry, and, with my husband, own and operate Paul Mitchell The School private cosmetology schools in Cleveland and Columbus.

We love helping our passionate students learn their trade and want them to successfully enter the workforce to employ their skills as soon as they have the training and education they need. But our industry needs a regulation overhaul, and House Bill 189 and Senate Bill 129 in the Ohio General Assembly would do that by reforming the training requirements for Ohio cosmetology students.

Notably, students attending private cosmetology schools like ours are required to complete 1,500 hours of training before sitting for their licensing exam. But cosmetologists who attend public high school vocational centers are able to become licensed after about 1,000 hours of cosmetology specific training — which, according to independent research, is entirely sufficient.

Keeping cosmetologists in training programs longer than necessary delays their opportunities to gain real-world experience and earn the money they need to support themselves and their families, and I am fully confident that 1,000 required hours will equip them with the tools they need.

As a private school owner, I am passionate about providing our students with a solid foundation to make a good living and set themselves up for lives and careers of success.

I want to get more students through our program and into the Ohio workforce, and this legislation will help us do just that.

I urge the Ohio General Assembly to do what is best for our students and Ohio, and pass these bills immediately.

NeCole Cumberlander
Co-owner, Paul Mitchell The School
(in Cleveland and Columbus)

Akron Beacon Journal/Ohio.com

Rowena Yeager: Common sense changes for cosmetology in Ohio

Rowena Yeager: Common sense changes for cosmetology in Ohio

Published: April 30, 2018 - 6:10 PM

By Rowena Yeager

Owning a salon in Twinsburg since 2001, with 30 years' experience as a stylist and now a member of the Ohio State Board of Cosmetology, I recognize the challenges in finding talented, hard-working cosmetologists to train and staff my business.

What I do see are today's repetitive educational regulations for students attending private cosmetology schools, as well as the burdensome requirements for cosmetologists wishing to obtain a license in Ohio when they move here from another state. These conditions don't help stylists successfully continue a career filled with employment opportunities.

Notably, students at private cosmetology schools must complete 1,500 hours of training before sitting for a cosmetology licensing exam, while the hours obtained for a vocational school stylist are around 1,000.

And my biggest interest in the cosmetology industry today is helping to create license reciprocity, or license endorsement, between states. Ohio's current laws make that difficult.

Fortunately, House Bill 189 and Senate Bill 129 are in the Ohio legislature, and if passed would reduce repetitive educational training and licensing requirements for those who want to work in the cosmetology industry. These bills are a practical approach to growing the state's job market and getting qualified people to work in strong, in-demand careers.

The bills would reduce the required training hours to 1,000 for all cosmetology schools, ensuring students complete these programs more quickly and with less student debt. Further, the bills would allow schooling and work hours in other states to count toward licensing in Ohio, and move Ohio to a standard national cosmetology exam.

These changes would create reciprocity, allowing out-of-state cosmetologists to quickly get licensed and working in Ohio when they move.

I have personal experience in this regard. My daughter attended cosmetology school in Utah and passed a licensing exam there with flying colors in 2012. When she returned to Ohio — because there is no reciprocity — it took two months and retaking the test in Ohio before she could receive her license and begin working here.

These proposed changes make sense. Again, those trained in public vocational centers currently receive around 1,000 hours of cosmetology-specific training, and the same two cosmetology manuals used across all schools in the country are based on a 1,000-hour program. I also understand it is my job as an employer to provide on-the-job extended education to my employees to further their skills. The knowledge I've gained over my career is more valuable as I share it, and my goal for each of my stylists is to set them up for success.

Finally, we need to get students into the workforce faster to help them develop the necessary skills. Both of these bills help to do that with provisions to allow apprenticeships. In that way, students can gain education toward receiving their license on the job while earning a wage.

I'm extremely excited to teach these apprentice employees in my own salon under my mentoring. Right now, when students attend school, they perform services and do not get paid. Loan debt in our country has become burdensome, and many times is not repaid by a student. These loans eventually default to the schools and then put the schools in a financial situation where they lose their funding and must close. There are seven more schools slated to close soon due to these circumstances.

The need for these changes is highlighted by the fact that the employment of barbers, hairstylists and cosmetologists is projected to grow faster than the average for all other occupations through 2026. And these bills have been supported by private and public schools of cosmetology, salon owners and licensees, and groups such as the Ohio Salon Association, the Institute for Justice, the Ohio Chamber of Commerce, the National Federation of Independent Business and the Buckeye Institute.

H.B. 189 and S.B. 129 also ensure that safety and sanitation are kept in the highest regard, both in holding salons accountable and in maintaining the education standards for safety and health within those 1,000 hours.

With these common sense regulations, we can prepare the next generation of talented cosmetologists and get Ohioans into their desired careers quickly, safely and with much success. The salon industry needs these changes, and our customers, as well as the state's workforce, will benefit from additional hard-working, ambitious stylists.

I urge members of the Ohio legislature to pass H.B. 189 and S.B. 129 now.

Yeager is the owner of the Studio Wish Salon in Twinsburg.

The Marietta Times

Ohio needs to ease cosmetology rules

Letters to the Editor

May 7, 2018

As the general manager of multiple salons in southeastern Ohio and West Virginia, we've been successful in growing our business and putting talented stylists to work across two states in this rewarding profession.

However, it's increasingly difficult for us to staff our Ohio locations, in part because it's so expensive and time consuming to obtain a cosmetology license in Ohio, and difficult to transfer an out-of-state license to this state.

House Bill 189 and Senate Bill 129 are in the Ohio General Assembly and will reduce the burdensome training requirements for those who want to work in Ohio's cosmetology industry, and make it easier to work in Ohio if licensed in another state.

I have first-hand experience in this regard, as I recently tried to bring a talented and experienced stylist from Florida to one of our salons in Ohio. Though she's been working in the industry since 1994, we were unable to get her an Ohio license unless she passed the entire cosmetology licensing exam. There were other delays as well, and after three months, we instead applied for a license in West Virginia. Within two hours, she was approved to begin work at one of our Wheeling locations.

Because of these ridiculous hurdles, the state and our Ohio customers lost out on a talented stylist.

These bills would greatly benefit those looking for jobs in Ohio, and allow us to draw talented, licensed workers from across the country to staff many of our Ohio locations. I strongly encourage the Ohio General Assembly to pass these bills now!

Teresa LeMasters

General Manager, Great Clips salons

R.L.O., Inc.

Tribune Chronicle

Support Ohio's cosmetology bills

Letters to the Editor

May 13, 2018

We are the owners of several hair salons in Trumbull, Mahoning and Lake counties, as well as in Pennsylvania, providing top-notch styling services to our customers and proudly employing more than 100 talented individuals in this rewarding profession.

While successful, it has become extremely difficult for us to staff our locations, in part, because it's so expensive and time consuming for students to obtain a cosmetology license in Ohio, and difficult to transfer an out-of-state license to Ohio.

House Bill 189 and Senate Bill 129 are pending in the Ohio General Assembly and will lessen excessive training requirements for those who want to work in Ohio's cosmetology industry, while making it easier to work in Ohio if licensed in another state. These bills would greatly benefit those looking for jobs in Ohio, and allow us to draw talented, licensed workers from Pennsylvania to staff our Ohio locations.

Ohio requires 1,500 hours of training to sit for a cosmetology licensing exam for students attending private cosmetology schools, even though students at public vocational schools need to complete around only 1,000 hours. Police officers for example train for only 695 hours.

These bills would reduce required hours to 1,000 for all schools, while maintaining the safety and skills training to keep customers safe. Meanwhile, cosmetologists licensed in another state can use their work hours elsewhere to count toward Ohio licensing, and would not need to sit for the Ohio exam.

These bills encourage job growth in Ohio, benefit small business owners and customers, and we strongly encourage the Ohio General Assembly to pass them now.

DANA and DEBBI DEVEREUX

Howland

Opinion: State rules for licensing lack balance

Marcy Mendenhall, Opinion contributor Published 10:08 a.m. ET June 4, 2018



Cosmetology student Kiera Copperthwaite works on hair and makeup for student model Rebecca Reilly. (Photo: ~Courtesy of RVCC)

As a small business owner with two Sport Clips locations in the Cincinnati area, I'm proud of the jobs my husband and I have helped bring to the state. But I've witnessed firsthand how difficult it can be to find the talent to staff these locations.

A big part of the problem is that the State of Ohio requires 1,500 hours of training to sit for a cosmetology licensing exam for students attending private cosmetology schools. When you realize EMTs require 800 hours of training, police officers require 695 hours and licensed practical nurses require 1,376 hours, that seems like quite a bit!

It's also difficult to find workers because more than 30 percent of private cosmetology schools have closed since 2015, including two in the area, so fewer and fewer students are entering the workforce. I used to receive three job applications per week from interested applicants for each of our locations, but now I'm lucky to get that many in a month for the two salons combined.

House Bill 189 and Senate Bill 129 are making their way through the Ohio General Assembly and will lessen excessive training requirements for those who want to work in Ohio's cosmetology industry. Both represent practical updates to laws that help grow Ohio's job market and put qualified people to work in good, in-demand jobs, more quickly. The need for these changes is highlighted by the fact that employment of barbers, hairstylists and cosmetologists has been projected to grow 13 percent between 2016 and 2026, faster than the average for all occupations.

By reducing the required training hours to 1,000 for private cosmetology schools, the bills will encourage students to complete their programs by eliminating the excessive time it takes to complete them. More people will be drawn to these jobs if it doesn't take so long to begin a career.

In fact, other states have recognized the challenges our industry faces and Ohio needs to do the same. In late May, Vermont Gov. Phil Scott signed a bill that is very similar to and validates Ohio's cosmetology bills by setting the state's minimum formal training at 1,000 hours for cosmetologists and creating an apprenticeship program for students.

This concept has been supported by private and public schools of cosmetology, salon owners and licensees, and groups such as the Ohio Salon Association, The Institute for Justice, the Ohio Chamber of Commerce, the National Federation of Independent Business (NFIB) and The Buckeye Institute.



Sharon Kueck, 53, has her hair cut by Stephanie Lockman, a volunteer from the Missouri College of Cosmetology, during the Hope Connection and Veteran Stand Down event at the Springfield Expo Center on Wednesday, Nov. 15, 2017. The annual event is a one-stop service site for the Ozarks' homeless population to gain access to vital services. (Photo: Nathan Papes/News-Leader)

Those who get their training in vocational centers as part of a public high school education currently receive around 1,000 hours of cosmetology-specific training, and I haven't witnessed a difference in skill levels between public and private school graduates. Independent research has also shown no justification for training above 1,000 hours before a cosmetologist begins working.

Finally, provisions in the bills also make it easier to begin working in Ohio if you're licensed in another state by allowing work elsewhere to count toward Ohio licensing hours, and removing the requirement that cosmetologists licensed in another state sit for the Ohio exam. Again, I have personal experience here: Recently, the wife of an army veteran with nearly three years' experience in Colorado and North Carolina

wanted to work at our salon, but it took her three months to obtain her license here and she had to sit for the Ohio exam.

This provision would no doubt also help staff our Harrison Sport Clips location, where we could draw talented workers to Ohio from both Indiana and Kentucky.

These bills will not eliminate the teaching of skills needed for professionalism, safety and health; they will update them to make sense in today's fast-paced job market. They also won't change the fact that cosmetologists need continuing education and training throughout their careers. Cosmetologists will still be required to have eight hours of professional education every two years to stay current.

Throughout my time as a salon owner, staffing has far and away been the biggest challenge I've experienced, and I'm confident that these bills will benefit both salon owners and students across the state.

Providing satisfying experiences for our customers and rewarding career and growth opportunities for our stylists are our top priorities as salon owners. I am confident that 1,000 hours of training is more than sufficient to produce highly motivated and well-trained stylists. I hope members of the Ohio General Assembly will agree.

Marcy Mendenhall is the owner of Sport Clips locations in Harrison and Loveland. Marcy Mendenhall (Photo: Provided)



May 22, 2017

Re: Bill 189

Dear Chairman Blessing, Vice Chair Reineke, Ranking Member Clyde and members of the House Government Accountability and Oversight Committee,

My name is Frank Schoeneman and I am CEO of Empire Education Group. We operate 88 Campuses across 21 States that specialize in Cosmetology education programs. We train and educate students in programs that range in length from 1,000 hours to 1,800 hours. As a result, I feel that I am qualified to speak about the legitimacy regarding the length and efficiency of the programs within that range.

Bill 189 which is before you for consideration is an important, innovative piece of Legislation that is at the leading edge of a nationwide reform movement. There has been much conversation regarding this Bill. It is our belief that much of the objection to Bill 189 has been focused on protecting a model that has not been revised in a number of years. That alone should be motivation to look at reform. This Legislation looks to address millennial learners and above. With the proliferation of on-line information like Facebook, You Tube and other forms of multi-media, students enter all forms of education with more than a pedestrian level of information about their career pursuits. That doesn't negate the necessity for the education; it's just a fact about our culture today.

Any claims that a reduction to 1,000 hour will compromise the education or put the general public at risk are, simply put, fabricated fantasy. We operate in two States that require a minimum of 1,000 hours and we have found that the quality of education is at least equal to that in our 1,500 or 1,800 hours states, largely because at the conclusion of their education *all graduates* are entry level employees. What we have not found is that there is a proliferation of health or safety concerns amongst clients.

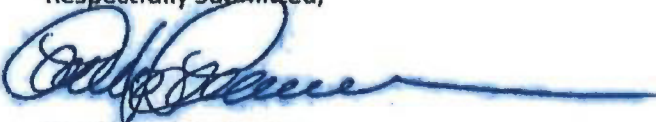
A few things that bear noting:

1. We charge approximately \$12.00 per hour for our education. As a result, our overall, total charge by program is dictated by length of the state-mandated program.
2. We believe that streamlining and normalizing hours is the best strategy to pre-empt any attempts to deregulate our industry. De-regulation would be in our opinion, a real detriment to the safety and sanitation of salon clients.

3. 1,000 hours does not create a poorly trained entry level graduate. Poor programs and/or educators do.
4. A 1,000 hour minimum requirement still allows Institutions in Ohio to offer a 1,500 hour program if that is what they feel is best for their students. Student Aid Funding rules allow schools to offer the program at up to 150% of the minimum state requirement if they feel it is educationally justified. At Empire we have a time tested viable educational model for 1,000 hours. Passing this reform Bill allows us to reduce the hours by one third ... thereby reducing the time the students spend in school. The result would be less student debt when they graduate.
5. A 1,000 hour program will allow a student to graduate approximately 3-4 months sooner. This allows our students to get to the workplace sooner, allowing them to earn more income as opposed to being in school racking up more debt.

In closing, I applaud the Committee's Leadership for continuing to take bold steps as innovators in vocational education reform. Whether a graduate chooses to pursue work in a "Mom and Pop" salon, a High End Full Service Salon or a Chain Salon, a 1,000 hour education does not eliminate those choices for their professional endeavor.

Respectfully Submitted,



Franklin Schoeneman
CEO/Chairman

Proponent Testimony on HB 189
Before the
House Government Accountability and Oversight Committee
By
NeCole Cumberlander, Owner
The Ohio Academy Paul Mitchell School
June 21, 2017

Chairman Blessing, Vice Chairman Reineke, Ranking Member Clyde, and members of the committee, my name is NeCole Cumberlander. Thank you for the opportunity to provide written proponent testimony on HB 189. I urge your support for the bill.

I have enjoyed a successful career in the beauty industry for over 25 years as a stylist and salon owner. In 2004, my husband, Orlando, and I expanded our company and opened Paul Mitchell Cosmetology Schools in the Cleveland and Columbus markets where we employ over 70 people and graduate over 300 students per year. I also formerly served on the State Board of Cosmetology for several years, representing the school owners' seat on the Board. I currently serve on the Board as the cosmetologist member.

As you have heard in other testimony, HB 189 contains several provisions that reasonably reform Ohio's cosmetology statute. In particular, I would like to address the move to 1,000 hours. Due to the Federal Gainful Employment Law, we have had to examine our business models to ensure that the numbers add up and that students continue to qualify for federal student aid in order to attend our schools. What I have realized is that state mandates requiring more hours which cost more for students to pay back are of concern to us and our students. Studies show that 1,000 hours is the right number. And we have actual proof of that working in Ohio.

In Ohio, career technical cosmetology programs have historically only required approximately 1000 hours of education. A recent inquiry indicates that career technical programs only are required to provide 1125 hours of cosmetology education while private cosmetology education requires 1500 hours for licensure. The state should not mandate 375 hours more in private education versus public education. More private hours simply force students to stay in training longer and take on more student debt before entering the job market to begin earning wages to pay back student loans. We want our students to be able to get into the workforce as soon as they are able, and be gainfully employed, so that they can service the public and begin to pay back their loans. However, I would recommend that the esthetics and nail/manicuring hours requirement remain as under current law.

I was that young woman starting my journey in the beauty industry as a student 25 years ago. I believe so strongly in providing a solid educational foundation for men and women entering the profession that I became a private school owner myself. If the state changes the required hours for all cosmetology education, whether public or private, my school will adapt to ensure students are prepared to start their careers in the beauty industry.

Mr. Chairman, thank you for your time and the opportunity to provide proponent testimony on HB 189 to the committee. Your consideration to support the comprehensive reform package to Ohio's cosmetology laws will greatly be appreciated.

Representative Seitz,

Recently I was disappointed to hear the argument that HB 189/SB 129 was discriminatory against women. As a female who has been involved in the cosmetology industry for over 20 years I could not find this to be more contrary. Cosmetology is one of the most versatile industries as it knows no gender or racial boundaries. A cosmetology license can be transferred to any state or country. This great industry serves all people and can be practiced by all people.

As the Director of Adult Education in my district, we deal with many different types of industry. At our institution, in both high school and adult education, we aim to make education accessible and decrease barriers for people. Area business, large and small, need a highly trained workforce quickly. Decreasing hours helps to fill open positions in a manner that reduces burden on both the employee and the business.

To say that lowering the education requirements for a primarily female dominated industry shows that women's education is not valued is simply false. Consider the Ohio Peace Officer Training Academy. When I consider that the training for this primarily male dominated occupation is only 695 hours, then the idea that I need 1500 hours of training seems absurd. I need 695 training hours to be armed with a firearm, but must complete more than double that amount in order to be armed with a curling iron?

For the argument that reduced hours will compromise public safety I would use our 1376 Licensed Practical Nurses and 150 hour Emergency Medical Technician program as examples. These programs surely could pose more risk to the employee and the public and can be completed in far less time.

Across the state career technical high school cosmetology programs have been administering a similar curriculum as the one proposed in SB 129. The state of Ohio has 88 cosmetology programs in its high schools, and this same amount of training has taken place as long as I can remember. When you consider the amount of graduates that 88 programs have produced over the last 15 years, if a 1000 hour curriculum was going to negatively impact the industry it would have already done so.

According to the Bureau of Labor Statistics the average Cosmetologist makes \$25,000-\$30,000 annually. In my area, the average welder could certainly make far more with only 600 hours of training. Considering that welding is probably a more male dominated occupation, I would again argue that keeping the law in its current form is far more burdensome to women and their earning potential.

I appreciate your consideration of these topics. Your work to create a cosmetology industry in which people can thrive and continue to grow is appreciated. Let us all work together to help Ohio's licensed professionals benefit from all the opportunities our cosmetology industry has to offer.

Kind Regards,

Tasha Shepline

NATIONAL

Cosmetology students win key ruling in dispute over labor

By ED WHITE Associated Press OCTOBER 3, 2018 — 2:00PM

DETROIT — A judge has cleared the way for possibly thousands of people to be paid for work performed while they were students at a chain of cosmetology schools in Michigan and two other states.

Students who cleaned floors, restocked products and washed towels were performing tasks that weren't directly related to their education at the Douglas J Aveda Institute, U.S. District Judge Judith Levy said Monday.

She said those students can be considered employees under federal law. The amount of money they might receive hasn't been determined.

"They're entitled to be compensated," John Philo, an attorney for former students, said Wednesday. "The next step will be class certification and showing this is happening through all the locations. It could be as high as 5,000 to 6,000 students."

The students claimed they could be sent home if they didn't perform tasks at Douglas J hair styling clinics and that the work could last anywhere from 30 minutes to hours, depending on how busy it was.

Joy Eberline, who completed the program in 2012 and passed a state licensing exam, said there was always laundry — "load after load of towels, of course, washing them, drying them, folding them, putting them in the cabinets where they belong."

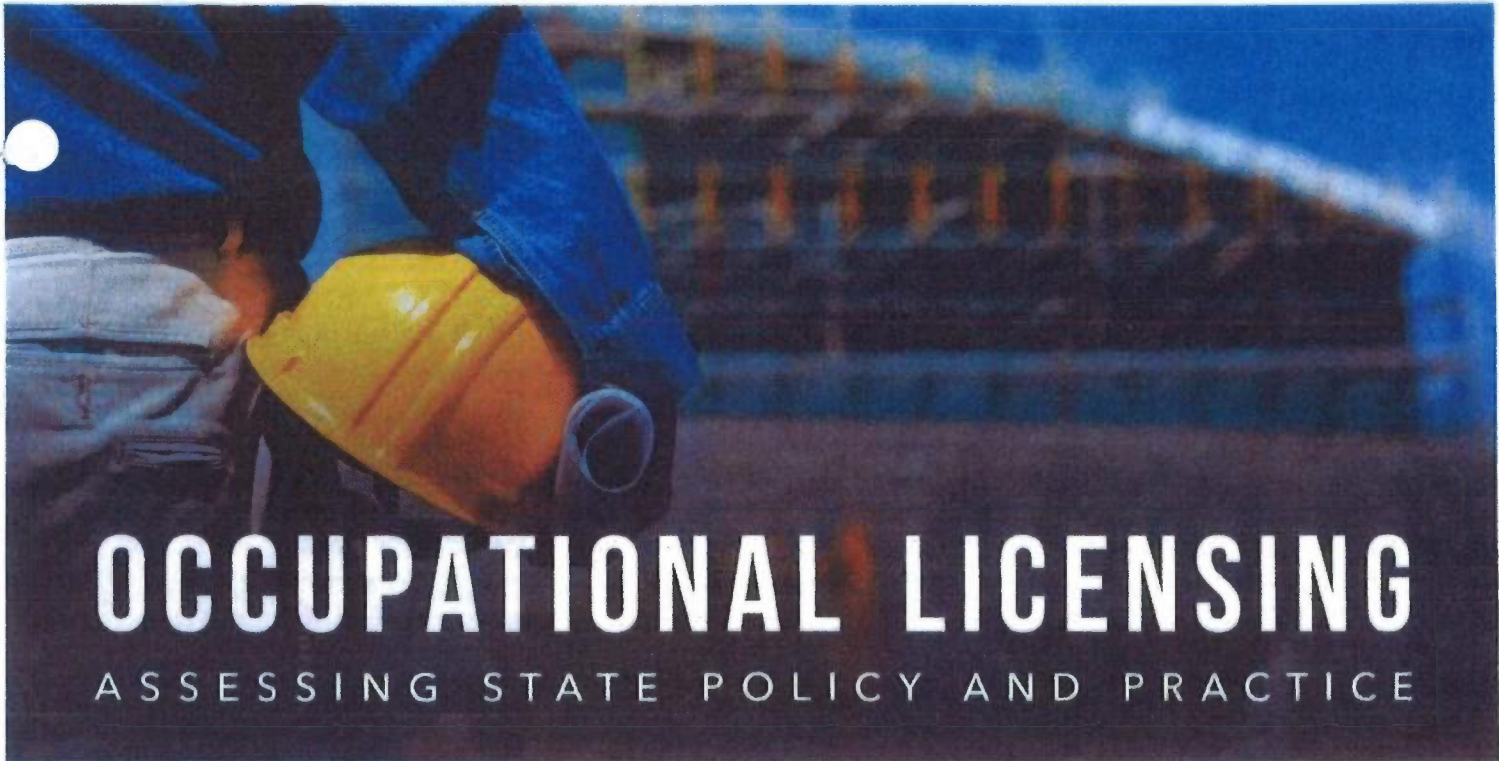
The judge said students had "little ability or incentive to say no."

Lawyers for Douglas J argued that manual labor was part of the education, which cost nearly \$18,000. Levy disagreed.

"These tasks are beyond the pale of the contemplated cosmetology education and training the plaintiffs sought," she said.

A message seeking comment was left with Douglas J's attorney. Douglas J has schools in Ann Arbor, East Lansing, Grand Rapids, Royal Oak, Chicago and Knoxville, Tennessee. It also operates salons in Okemos, Ann Arbor and Rochester Hills.

Douglas J co-owner Scott Weaver is a member of the Michigan Board of Cosmetology, which helps oversee the industry in the state.



OCCUPATIONAL LICENSING

ASSESSING STATE POLICY AND PRACTICE



For information on the Occupational Licensing project, please contact Suzanne Hultin at 303.856.1531 or suzanne.hultin@ncsl.org.

Over the last 60 years, the number of jobs requiring an occupational license, or government approval to practice a profession, has grown from about one in 20 to more than one in four. When implemented properly, occupational licensing can help protect the health and safety of consumers by requiring practitioners to undergo a designated amount of training and education in their field. However, differences and disparities in occupational licensing laws across states can create barriers for those looking to enter the labor market and make it harder for workers to relocate across state lines. Certain populations—including military spouses and families, immigrants with work authorization, people with criminal records, and unemployed and dislocated workers—are affected disproportionately by the requirements and variances of occupational licensing.

EMPLOYED WORKERS

25.5% HAVE A
CERTIFICATION OR LICENSE

UNEMPLOYMENT RATES

2.7% FOR LICENSED JOBSEEKERS
6.1% FOR UNLICENSED JOBSEEKERS

To begin looking for solutions to these problems, the National Conference of State Legislatures, or NCSL, National Governors Association Center for Best Practices, NGA Center, and The Council of State Governments, or CSG, are launching a three-year project entitled *Occupational Licensing: Assessing State Policy and Practice*, with the goal of enhancing the portability of occupational licenses. This work is made possible through a grant from the U. S. Department of Labor's Employment and Training Administration.

Primary Objectives of the Project

- » Identify licensing criteria to ensure that existing and new licensing requirements are not overly broad, burdensome or restrictive; and that they do not create unnecessary barriers to labor market entry;
- » Improve the portability and reciprocity provisions for selected occupations across state lines.

The *Occupational Licensing* project includes the following major activities:

Research and Reports on the Current State Occupational Licensing Landscape

This project will identify and evaluate the licensing requirements for 34 occupations across all 55 states and territories. A comparison report will look at the criteria—including work experience requirements, fees and applications, personal background documentation, licensure portability and other requirements—for each of the 34 occupations. This research will result in the National Occupational Licensing Report, which will help inform the work of the project and broaden the understanding of the barriers, challenges and opportunities related to occupational licensing. Additional reports on special populations—military spouses and veterans, unemployed or dislocated workers, immigrants with work authorization and individuals with criminal records—will also be made available.

Engage States through Occupational Licensing Policy Consortium

The *Occupational Licensing* project will engage a select group of states in a structured peer learning consortium with technical assistance support from the partner organizations. Through a competitive application process, up to 10 states will be selected to join the consortium. Participating states will become familiar with occupational licensing policy in their own state, learn about occupational licensing best practices in other states, and begin implementing actions to remove barriers to labor market entry and improve portability and reciprocity.

Each selected state will form a project team to include representation from relevant stakeholders involved in occupational licensing, including: state legislators, the governor's office, state workforce agencies, state regulatory or licensing boards, and state administrative agencies involved in occupational licensing.

Consortium states will benefit from:

- » Multi-state team meetings
- » In-state learning consortium meetings
- » Targeted, state-specific technical assistance
- » Support for state action plan development and implementation

PROJECT TIMELINE

June 2017	Request for Proposals from state teams opens
August 2017	Request for Proposals due from states
August 2017	Release of National Occupational Licensing Report
December 2017	First Multi-State Consortium featuring licensure experts and team time to develop state action plans
March 2018	Release of interstate licensure compact resources
July 2018	Release of four population-specific reports (military families, dislocated workers, immigrants with work authorizations and individuals with criminal records)
August 2018	Second Multi-State Consortium Meeting
June 2019	Third Multi-State Consortium Meeting
2017–2019	Ongoing webinar series on policy issues regarding occupational licensing
2018–2019	Ongoing in-state technical assistance for consortium states
2017–2019	Ongoing blogs, newsletters and magazine articles on the project and licensure policy issues
December 2019	Final report on lessons learned and state progress on action plans
December 2019	Process established to develop licensure compact

OCCUPATIONS

Barbers
 Bus Driver (City/Transit)
 Bus Drivers, School or Special Client
 Construction Managers
 Construction and Building Inspectors
 Dental Hygienists
 Electricians
 Emergency Medical Technicians and Paramedics
 Hairdressers, Hairstylists and Cosmetologists
 Heating, Air Conditioning, and Refrigeration Mechanics and Installers
 Heavy and Tractor-Trailer Truck Drivers
 Insurance Sales Agents
 Licensed Practical and Licensed Vocational Nurses
 Manicurists and Pedicurists
 Massage Therapists
 Nursing Assistants
 Occupational Therapy Assistants
 Pharmacy Technicians
 Physical Therapy Assistants
 Pipefitters and Steamfitters
 Plumbers
 Preschool Teachers, Except Special Education
 Private Detectives and Investigators
 Radiologic Technologists
 Real Estate Appraisers
 Real Estate Sales Agents
 Respiratory Therapists
 Security and Fire Alarm Systems Installers
 Security Guards
 Skin care Specialists
 Teacher Assistants
 Veterinary Technologists and Technicians
 Vocational Education Teachers, Postsecondary
 Water and Wastewater Treatment Plant and System Operators

National Governors Association

Eleven States Chosen for Occupational Licensing Policy Study

- ±

September 19, 2017

Share: |||

In a joint project with the National Conference of State Legislatures and the Council of State Governments, the National Governors Association helped to select 11 states to participate in a peer learning consortium focused on occupational licensing policy.

The 11 states (Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Nevada, Wisconsin and Utah, will become familiar with occupational licensing policy in their own state, learn about occupational licensing best practices in other states, and begin implementing actions to remove barriers to labor market entry and improve portability and reciprocity.

“We shouldn’t make it unnecessarily difficult for those who already have the necessary skills to obtain jobs,” said NGA Chair **Nevada Gov. Brian Sandoval**. “I’m glad Nevada is part of this group of states that will work to reduce unnecessary burdens and help strengthen the nation’s workforce.”

To view the press release on the project, click [here](#).

NCSL LAUNCHES OCCUPATIONAL LICENSING LAWS DATABASE

1/23/2018

Thirty-Four Licensed Occupations Are Covered



Denver— A new database aimed at better understanding how states tackle occupational licensing policy was launched today. The National Occupational Licensing Database focuses on over 30 licensed occupations identified by project partners [The National Conference of State Legislatures \(NCSL\)](#), [National Governors Association Center for Best Practices \(NGA Center\)](#), and [The Council of State Governments \(CSG\)](#).

The database is designed to capture professions that may be of key interest to policymakers across the country, and to provide a clear picture of the many discrepancies and variations in licensing requirements for more than 30 growing professions. Some of the professions include: barbers, electricians, nursing assistants, real estate sales agents, and private detectives.

This database displays 18 measures for each profession, including hours of training required for licensure, continuing education requirements and cost of initial licensure. The database also allows users to compare the licensing requirements of a particular occupation between two or more states. The project, entitled Occupational Licensing: Assessing State Policy and Practice, is in collaboration with NGA and CSG, and is well into the first year of a three-year process focused on researching licensing criteria, identifying those criteria that operate as barriers to market entry and exploring occupational licensing best practices with 11 states as part of the Occupational Licensing Policy Consortium.

[Access the National Occupational Licensing Database.](#)

[More information on the Occupational Licensing project.](#)

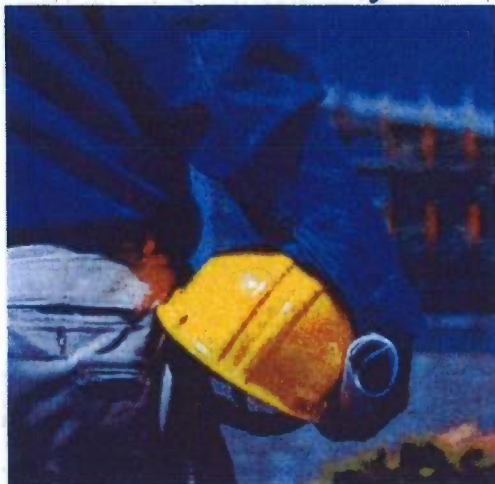
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NCSL is a bipartisan organization that serves the legislators and staffs of the states, commonwealths and territories. It provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues and is an effective and respected advocate for the interests of the states in the American federal system.

THE NATIONAL OCCUPATIONAL LICENSING DATABASE

Suzanne Hultin 1/10/2018

Executive Summary



Occupational licensing laws require workers to submit verification of training, testing and education—and often pay associated fees—before beginning a job in their chosen field. When implemented appropriately, the state-mandated testing, training and educational requirements of occupational licensure can mitigate potentially harmful health and safety risks for the public.

In some professions, improper practice can result in serious harm to the public. Occupational licensing can reduce the number of unqualified individuals offering their services in that profession, increasing overall public safety and welfare.

However, because licensing laws are established independently by each state government, significant differences and disparities in licensing requirements often exist across states.

In some cases, occupational licensing requirements are established directly by state legislatures in the statute authorizing the creation of the license. Other states delegate the power to determine licensure requirements to state agencies or state-sponsored independent boards. Often, licensing requirements are set by a combination of statute and regulation, the latter being written by a state government agency or an independent licensing board usually comprised of industry representatives appointed by the state's governor.

Over the last 60 years, the number of jobs requiring an occupational license, or government approval to practice a profession, has grown from about 1-in-20 to almost 1-in-4. Licensing laws are implemented with the intention of protecting the health and safety of consumers by creating barriers to employment—through testing, training, and fees—in professions determined to be sufficiently dangerous. Excessively onerous requirements, however, can create barriers to employment for individuals who may not actually pose a serious risk. In recognition of this fact, some states have recently moved to remove licensure requirements determined to be overly burdensome.

Among certain populations—like immigrants with work authorization and people with criminal records—individuals who are otherwise well-equipped to safely practice a chosen profession can be limited by licensing requirements that prohibit these individuals from practicing based on their nontraditional education or language proficiency, and do not accurately reflect the actual risks of practicing that profession. Furthermore, the wide variation in occupational licensing laws across states can impede the ability of workers to relocate across state lines. This variation disproportionately impacts employment opportunities for individuals that move from the job market in one state to another—like long-term unemployed and otherwise dislocated workers seeking new opportunities, or

members of the military and their families who are regularly moved to new places in their service to the country.

The National Occupational Licensing Database was produced by the National Conference of State Legislatures (NCSL), the National Governors Association Center for Best Practices (NGA Center) and The Council of State Governments (CSG), with grant support from the United States Department of Labor, Employment and Training Administration, to contribute to the understanding of the variation in occupational licensing burdens across the country and particularly among professions for which these laws may pose unnecessary barriers to employment.

Database

Click on the image to access the database.

The screenshot shows the National Occupational Licensing Database interface. It includes a search bar, filters for State and Job Name, a map of the United States showing licensing status by state, and a detailed table of results for 'Dental Hygienist'.

State	Job Name	Job	Description	Licensing by State
Alabama	Dental Hygienist	Dental hygienist	Clean teeth, examine patients for signs of oral disease, and provide other preventive dental services.	Licensed
Alaska	Drinking Water Treatment Plant Operator (Grade 3)	Water and wastewater treatment plant and system operators manage a system of machines, on control boards, to treat (clean) water or wastewater.	Water and wastewater treatment plant and system operators manage a system of machines, on control boards, to treat (clean) water or wastewater.	Licensed
Arizona	Electrician	Electrician	Install, maintain, and repair electrical wiring, equipment, and fixtures. Insure that work is in accordance with codes, electrical safety, and other regulations.	Licensed
Arkansas	Emergency Medical Technician (EMT)	Emergency Medical Technician (EMT)	Emergency medical technicians provide first aid and emergency care for the sick or injured in emergency situations. They often respond on the quick reaction and competent care provided by these workers is essential to emergency care, ambulance medical services, and transportation to medical facilities.	Licensed
California	General Contractor	General Contractor	Plan, direct, coordinate projects concerned with construction and maintenance of structures, facilities, equipment, and heavy machinery. May include overseeing steel, light, or electrical construction systems.	Licensed
Colorado	Heavy Tractor Tractor-Inspection	Heavy Tractor Tractor-Inspection	Inspect, maintain, and repair heavy machinery, equipment, and fixtures. Insure that work is in accordance with codes, electrical safety, and other regulations.	Licensed
Connecticut	HVAC Contractor	HVAC Contractor	Install, maintain, and repair heating, ventilation, and air conditioning systems.	Licensed
Delaware	Insurance Sales Agent	Insurance Sales Agent	Insurance sales agents help insurance companies generate new business by contacting potential customers and providing information on insurance products.	Licensed
District of Columbia	Licensed Practical Nurse	Licensed Practical Nurse	Provide direct patient care under the supervision of a registered nurse or physician. Duties include monitoring vital signs, administering medications, and providing emotional support.	Licensed
Florida	Massage Therapist	Massage Therapist	Perform massage therapy to relieve muscle tension and promote relaxation.	Licensed
Georgia	Occupational Therapist	Occupational Therapist	Assess and treat patients with physical, cognitive, or emotional disabilities to improve their ability to perform daily activities.	Licensed
Hawaii	Pharmacy Technician	Pharmacy Technician	Prepare and dispense medications under the supervision of a pharmacist.	Licensed
Idaho	Physical Therapist	Physical Therapist	Assess and treat patients with physical disabilities to improve their mobility and function.	Licensed
Illinois	Pipe Fitter	Pipe Fitter	Install, maintain, and repair pipes and machinery in industrial settings.	Licensed
Indiana	Plumber (Journeymen)	Plumber (Journeymen)	Install, maintain, and repair water supply, drainage, and heating systems.	Licensed

Occupations

The scope of the database was narrowed from all licensed occupations in the United States to 34 identified by analysts at NCSL, the NGA Center, and CSG. These 34 were chosen based on the following criteria:

- License required in 30 or more states.
- Licensure does not require a four-year degree education, per U.S. Bureau of Labor Statistics (BLS) education designation.
- Above-average projected growth in employment over the next 10 years, as determined by BLS.
- Total national current employment of 10,000 or more.

These criteria were designed to capture professions that may be of key interest to policymakers across the country, and to provide a clear picture of the many discrepancies and variations in licensing requirements for more than 30 growing professions.

Two-thirds of all jobs in the U.S. are within occupations designated by BLS as not needing post-secondary education. Further, limiting the scope of the database to only those professions that do not require four-year college degrees focuses this research on employment opportunities available to individuals without higher education, who face the highest unemployment rate in the nation. These workers are therefore more likely to encounter the undue barriers to work that policymakers may wish to address.

Lastly, not only does basing the selection of occupations on projected growth potential extend the relevancy of these data in the constantly changing labor market, it also is meant to ensure that data are provided for sectors of the economy in which discussions of workforce development may already be a focus for policymakers.

The database provides data on the occupations shown in Table 1.

Barber	Bus Driver (City/Transit)	Bus Driver, School or Special Client	General Contractor	Home Inspector	Dental Hygienist
Electrician	Emergency Medical Technician & Paramedic	Hairdressers, Hairstylists & Cosmetologists	Heating, AC, & Refrigeration Mechanic	Heavy, Tractor- Trailer Truck Driver	Insurance Sales Agent
Practical & Vocational Nurse	Manicurist & Pedicurist	Massage Therapist	Nursing Assistant	Occupational Therapy Assistant	Pharmacy Technician
Physical Therapy Assistant	Pipefitter & Steamfitter	Plumber	Preschool Teacher*	Private Detective	Radiologic Technologist
Real Estate Appraiser	Real Estate Sales Agent	Respiratory Therapist	Security, Fire Alarm System Installer	Security Guard	Skin Care Specialist
Teacher Assistant*	Veterinary Technician	Vocational Education Teacher*	Water Treatment System Operator		

TABLE 1. OCCUPATIONS SELECTED FOR RESEARCH

* data collection ongoing

Data

For all 34 occupations, available data relating to occupational licensing laws and requirements were collected at the state level. The resulting dataset provides details on the prevalence and levels of initial and continuing education requirements, the number and frequency of examinations, amount of occupational or professional experience or other required job training, and the monetary fees associated with receiving an occupational license across all states.

The dataset also provides information about the legal structures of the boards or government agencies that issue licenses for each occupation in all states. Data are sorted by occupation and can be viewed to compare the requirements for a selected occupation across states.

For each occupation and across all states, where available, the dataset includes the following numerical variables:

- Level of educational attainment needed to fulfill the licensure requirement.
- Number of hours/units of training needed to fulfill the licensure requirement.
- Number of weeks of experience required to fulfill the licensure requirement.
- Number of examinations taken to fulfill licensure requirement.
- Number of years before renewal is required for an occupational license.
- Number of hours/units of continuing education required to maintain or renew licensure.
- Maximum dollar amount charged for initial licensure.
- Maximum dollar amount charged for renewal of licensure.
- Minimum age needed to fulfill licensure requirement.
- Number of active practitioners sitting on licensing board.

Categorical variables are created to describe varying state licensing policies such as:

- Requirement for maintenance of “good moral character.” (Determination of moral turpitude made by licensing authority, often with broad statutory discretion)
- Restrictions imposed on individuals with criminal records.
 - For example: blanket bans, consideration of rehabilitation, or probationary licensure.
- Reciprocity agreements allowing interstate license recognition.
- Degree of independence of board, measured by funding mechanisms.

Table 2 shows the national average number of exams required, national average amount of initial licensing fees, and the proportion of states that include “good moral character” standards for the occupations researched.

OCCUPATION / PROFESSION	AVERAGE INITIAL LICENSING (IN DOLLARS)	PERCENT OF STATES WITH "GOOD MORAL CHARACTER" REQUIREMENT	AVERAGE NUMBER OF EXAMS
Licensed practical nurse	\$301.25	37.3%	1.04
Manicurist/Pedicurist	\$180.64	27.5%	1.90
Massage Therapist	\$363.91	49.0%	1.17
Occupational Therapy Assistant	673.49	56.9%	1.14
Pharmacy Technician	\$69.80	41.2%	1.55
Physical Therapy Assistant	\$554.86	58.8%	1.59
Pipefitter	\$167.87	7.8%	1.09
Plumber	\$173.98	9.8%	1.11
Private Detective	\$363.87	68.6%	1.00
Radiologic Technologists	\$259.38	80.4%	1.98
Real Estate Appraiser	\$432.58	98.0%	1.04
Respiratory Therapist	\$326.27	33.3%	1.00
School Bus Driver	\$96.23	21.6%	1.80
Security Alarm Technician	\$214.27	17.6%	1.06
Security Guard	\$120.88	45.1%	1.00
Esthetician	\$175.24	27.5%	1.92
City Bus Driver	\$52.42	37.3%	2.04
Veterinary Technician	\$400.28	39.2%	1.51

OCCUPATION / PROFESSION	AVERAGE INITIAL LICENSING (IN DOLLARS)	PERCENT OF STATES WITH "GOOD MORAL CHARACTER" REQUIREMENT	AVERAGE NUMBER OF EXAMS
Dental Hygienist	\$1,600.67	64.7%	2.61
Water Treatment Plant Operator	\$176.07	2.0%	1.00
Electrician	\$137.34	0.0%	1.00
Emergency Medical Technician	\$121.40	47.1%	1.94
General Contractor	\$355.97	25.5%	2.05
Tractor Trailer Truck Driver	\$49.16	3.9%	2.04
Home Inspector	\$468.34	21.6%	1.18
HVAC Contractor	\$332.34	9.8%	1.39
Insurance Sales Agent	\$86.02	0.0%	1.00

TABLE 2: SELECTED SUMMARY STATISTICS FROM DATASET

Data were collected by staff at NCSL, the NGA Center, and CSG through a review of state code and statute from July-September 2017. The data then underwent a comprehensive cleaning process to ensure accuracy and reliability across each of the 34 occupations and all 50 states and the District of Columbia.

Occupational Licensing Project

[Learn more about the Occupational Licensing Project.](#)

Cosmetologists - <http://www.ncsl.org/research/labor-and-employment/occupational-licensing-statute-database.aspx>

Manicurist/Pedicurist

The Council of State Governments (CSG)

Connecticut Collaborating on Best Practices for Occupational Licensing

By

Ray Williams

Thursday, April 12, 2018 at 11:06 AM

Connecticut held a meeting on March 2, 2018 on occupational licensure with assistance from The Council of State Governments, or CSG, the National Conference of State Legislatures, or NCSL and the National Governor's Association, or NGA.

CSG launched an occupation licensing technical assistance project in August 2017 in partnership NCSL and NGA, through a \$7.5 million grant from the U.S. Department of Labor, or DOL. The 11 state consortium includes Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Nevada, Utah and Wisconsin. Each state focused on specific occupations and target populations in an attempt to identify known and unknown barriers of occupational licensing.

The DOL project scope identified the key populations for each state as military spouses and children, immigrants with work authorization, people with criminal records and unemployed and dislocated workers. The DOL identified 34 occupations for evaluation, allowing each state to select specific occupations based on their individual needs. The overall objective of the project is to examine occupational licensing requirements, identifying potential barriers and to improve portability across state lines.

The consortium met last November in Tucson Arizona, giving state leaders an opportunity to work on action planning with licensing stakeholders, while collaboratively collecting data. Since the November meeting, 7 states have held in state meetings including Arkansas, Colorado, Connecticut, Delaware, Illinois, Maryland and Nevada. The remaining 4 states, including Indiana, Kentucky, Utah and Wisconsin have in state meetings planned in the coming weeks.

Throughout these meetings, reciprocity is one of the emerging themes and states are looking to neighboring states, as well as consortium states, to ease occupational licensing portability between state lines.

Connecticut's Department of Public Health Section Chief Christian Anderson said during the 2017 consortium meeting, "We have always assumed that Connecticut's reciprocity agreements have been a selling point for the state but we really didn't know until we met with consortium states."

During Connecticut's in-state meeting, April 2018, Director of Policy Bill Wlez said, "it is imperative that Connecticut review and expand reciprocity agreements with consortium states, as well as neighboring states, to stay competitive and continuing to protect public safety."

Over the course of the project, consortium states are relying on current and active interstate compacts as a means to solve problems that span state boundaries. CSG's National Center for Interstate Compacts, or NCIC, is a policy program developed by CSG to assist states in developing interstate compacts, which are contracts between states. Currently, the NCIC manages more than 200 active interstate compacts helping states facilitate consensus on national issues.

CSG, NCSL and NGA provided a throughout review of state requirements and reciprocity agreements on occupational licenses. The collected data will allow all states to ensure consistency throughout testing procedures, education requirements and any necessary training requirements across all 50 states and 5 territories.

In addition to reciprocity agreements, consortium states are also using shared data to examine best practice methods for background check requirements, apprenticeship programs, transferability of military skills, overcoming legislative obstacles and lessons learned approaches to occupational licensing barriers.

"It is an opportunity for all states to learn from one another, as well as hopefully ease barriers in portability, all while advancing economic development," Connecticut's DOL Executive Director Kathleen Marioni said during a status meeting.

For the remainder of 2018, CSG, NGA and NCSL will visit each consortium state, providing technical assistance and best practice methodologies from other states. All 11 consortium states will meet in November of 2018 to review and share their progress with stakeholders.

THE OCCUPATIONAL LICENSING DEFENSE ACT

DECEMBER 8, 2017

Summary: The purpose of this Act is to ensure that an individual may pursue a lawful profession free from unnecessary occupational regulations and protect those against the misuse of occupational regulations that reduce competition and increase prices to consumers. The government should use the least restrictive means of furthering important government interests in the name of public safety and not substantially burden a individual from seeking a lawful occupation.

Model Policy

{Title, enacting clause, etc.} Section 1. {Purpose}

This Act's purpose is to:

(A) Ensure that an individual may pursue a lawful occupation free from unnecessary occupational regulations, and

(B) Protect against the misuse of occupational regulations to reduce competition and increase prices to consumers.

Section 2. {Definitions} The following definitions apply in this Act:

(A) "Business license" means a permit, registration, certification, franchise or other approval required by law for a sole proprietorship, partnership or corporate entity to do business.

(B) "Certification" is a voluntary program in which the government grants nontransferable recognition to an individual who meets personal qualifications established by a legislative body. Upon approval, the individual may use "certified" as a designated title or as part of a designated title. A non-certified individual may also perform the lawful occupation for compensation but may not use the title "certified." "Certification" is not intended to be synonymous with an "occupational license" in this Act or to prohibit the use of private certification.

(C) "Certified" is a designated title an individual may use if the individual meets the personal qualifications for certification established by the government or a private certifying organization.

(D) "Court" means any court, administrative tribunal or other government agency acting in a judicial or quasi-judicial capacity.

(E) "Government" means the government of this state or any of its political subdivisions.

(F) "Lawful occupation" means a course of conduct, pursuit or profession that includes the sale of goods or services that are not themselves illegal to sell irrespective of whether the individual selling them is subject to an occupational regulation.

(G) "Least restrictive means of furthering an important governmental interest" means, from least to most restrictive,

- (1) Market competition,
- (2) Third-party or consumer-created ratings and reviews,
- (3) Private certification,
- (4) Voluntary bonding or insurance,
- (5) A provision for private civil action in small-claims or district court to remedy consumer harm,
- (6) Deceptive trade practice act,
- (7) Mandatory disclosure of attributes of the specific good or service,
- (8) Regulation of the process of providing the specific good or service,
- (9) Inspection,
- (10) Bonding,
- (11) Insurance,
- (12) Registration,
- (13) Certification,
- (14) Specialty occupational license for medical reimbursement or
- (15) Occupational license.

(H) "Occupational license" is a nontransferable authorization in law for an individual to perform a lawful occupation for compensation based on meeting personal qualifications established by a legislative body. It is illegal for an individual who does not possess an occupational license to perform the occupation for compensation. Occupational licensing is the most restrictive form of occupational regulation.

(I) “Occupational regulation” means a statute, ordinance, rule, practice, policy or other requirement in law that an individual possess certain personal qualification to work in a lawful occupation. It excludes a business license and zoning and land use regulations except to the extent those laws regulate an individual’s personal qualifications to perform a lawful occupation.

(J) “Personal qualifications” are criteria established by a legislative body related to an individual’s personal background including completion of an approved educational program, satisfactory performance on an examination, work experience, criminal history, moral standing and completion of continuing education.

(K) “Registered” is a designated title an individual may use if the individual meets the requirements for registration established by the government or a private registration organization.

(L) “Registration” means a requirement established by a legislative body in which an individual gives 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. Upon approval, the individual may use “registered” as a designated title or as part of a designated title. A non-registered individual may not perform the occupation for compensation or use “registered” as a designated title. “Registration” is not transferable. It is not intended to be synonymous with an “occupational license” in this Act or to prohibit the use of private registration.

(M) “Specialty occupational license for medical reimbursement” means a non-transferable authorization in law for an individual to qualify for payment or reimbursement from a government agency for the non- exclusive provision of medical services based on meeting personal qualifications established by the legislature. A private company may recognize this credential.

(N) “Substantial burden” means a requirement in an occupational regulation that imposes significant difficulty or cost on an individual seeking to enter into or continue in a lawful occupation. A substantial burden is a burden that is ~~more than incidental.~~

Section 3. {Right to engage in a lawful occupation}

(A) An individual has a fundamental right to engage in a lawful occupation free from any substantial burden in an occupational regulation unless the government demonstrates

(1) It has an important interest in protecting against present and recognizable harm to the public health or safety, and

(2) The occupational regulation is the least restrictive means of furthering that important interest.

(B) Defense and Relief

(1) An individual may assert as a defense the right to engage in a lawful occupation in any judicial or administrative proceeding brought by the government to enforce an occupational regulation that violates Section 3, Subsection (A) which is.

(a) In law at the effective date of this Act; or

(b) Enacted, adopted or amended after the effective date of this Act and does not include in state statute an explicit exemption from this Act.

(2) An individual who asserts a defense under this section has the initial burden of proof that an occupational regulation substantially burdens the individual's right to engage in a lawful occupation.

(3) If the individual meets the burden of proof under Subsection (2), the government must demonstrate by clear and convincing evidence that the government has an important interest in protecting against present and recognizable harm to the public health or safety, and the occupational regulation is the least restrictive means for furthering that important governmental interest.

(C) A court shall liberally construe this Act to protect the right established in Subsection (A) of this section. In construing occupational regulations, including occupational licensing statutes, rules, policies or practices, the

following canons of interpretation are to govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the statute:

(1) Occupational regulations shall be construed and applied to increase economic opportunities, promote competition and encourage innovation;

(2) Any ambiguities in occupational regulations shall be construed in favor of workers and aspiring workers; and

(3) The scope of practice in occupational regulations shall be construed narrowly so as to limit its application to individuals who would be burdened by regulatory requirements only partially related to the goods and services they provide.

(D) A court shall make its own findings of fact and conclusions of law. It shall not grant any presumption to legislative or administrative determinations of harm to the public health or safety, or that the regulation is the least restrictive means of furthering an important governmental interest.

(E) Nothing in this section shall be construed (1) to create a right of action against the government or a private party or (2) to require the government or a private party to do business with an individual who is not licensed, certified or registered with the government.

Section 4. {Federal law's use of state occupational regulations}

(A) Nothing in this Act shall be construed to create a right of action against the federal government for its use of a state occupational regulation in federal law.

Section 5. {Exemption} [Optional]. This Act does not apply to an occupational regulation of an individual who is a [insert type of occupation to be exempted].

Section 6. {Severability Clause} Section 7. {Repealer Clause} Section 8. {Effective Date}

Adopted by the Commerce, Insurance and Economic Development Task Force at the Spring Task Force Summit on May 11, 2012. Amended by the

American Legislative Exchange Council (ALEC)

<https://www.alec.org/model-policy/the-occupational-licensing-defense-act-2/>

Commerce, Insurance and Economic Development Task Force at the Annual Meeting, August 8, 2013.

Approved by the ALEC Board of Directors on July 3, 2012. Approved by the ALEC Board of Directors October 2013.

Amended and reapproved by the Commerce, Insurance and Economic Development Task Force at the States and Nation Policy Summit, December 8, 2017.