



# THE BUCKEYE INSTITUTE

## **Helping Ohioans Out of Prison's Revolving Door, and into Jobs**

Interested Party Testimony  
Ohio House Commerce and Labor Committee  
House Bill 263

Daniel J. Dew, Legal Fellow  
The Buckeye Institute

November 6, 2019

As Prepared for Delivery

Chairman Manning, Vice Chair Dean, Ranking Member Lepore-Hagan, and members of the Committee, thank you for the opportunity to testify regarding House Bill 263.

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

The Buckeye Institute has long supported occupational licensing reform to ensure that Ohioans do not have to ask for the state's permission to earn a living, and we have argued for criminal justice reforms that promote due process, individual freedom, and society's need for vigorous criminal law enforcement. Buckeye championed the policy that formed the basis of last session's Senate Bill 255, which established reviews of occupational licensing boards; and we have promoted a long list of criminal justice-related reforms, including changes to Ohio's civil asset forfeiture rules, record sealing requirements, and criminal sentencing.

Although occupational licensing regimes and criminal justice initiatives may seem unrelated, they are not. In fact, studies show a close correlation between successful criminal rehabilitation and employment. Occupational licensing restrictions that make it harder for ex-offenders to be licensed or hired can cause recidivism rates to rise.

Many states, including Ohio, have so-called “good character provisions” in their occupational licensing laws that allow licensing boards to deny an applicant a license based on the board’s view of an applicant’s character. Such provisions give licensing authorities authority to deny a license based on an applicant’s criminal history even if the applicant’s criminal history is irrelevant to the license at issue. A **report** by the Arizona State University Center for the Study of Economic Liberty reveals that from 1997-2007 states with heavier occupational licensing burdens saw a nine percent increase in three-year recidivism rates, while states with lower occupational licensing burdens, and without good character provisions, saw an average recidivism rate decline of nearly 2.5 percent.

Currently, Ohio licensing authorities can initially deny applicants a license based solely on the applicant’s “bad moral character,” “bad reputation,” or “moral turpitude.” Under House Bill 263, a licensing authority may not deny a license based solely on such reasons. In fact, House Bill 263 removes all references to these factors and all provisions allowing these determinations as reasons for denying licenses. House Bill 263 further requires individual licensing authorities to identify and list any disqualifying crimes relevant to particular licenses. A conviction of a disqualifying crime, however, does not automatically bar an applicant from receiving the license. The bill expressly prohibits denying an initial license based solely or partially on the applicant’s criminal conviction without also considering a host of other factors, including the time elapsed since the crime or release from incarceration, the nature and seriousness of the offense, and the relevance of the offense to the duties of the licensed occupation.

House Bill 263 takes positive strides by moving Ohio licensing away from generic character-based denials. We applaud those steps in the right direction and would recommend another change in

the licensing process to help Ohio grant more worthy applicants an occupational license—tailored licenses.

Giving licensing boards the authority to itemize lists of license-disqualifying crimes risks a series of over- and under-inclusive lists that deny some worthy applicants while approving other unworthy applicants. Allowing licensing authorities to place narrowly tailored restrictions on occupational licenses would help even more ex-offenders get back to work. Depending on the applicant's criminal history, the licensing authority could restrict a licensee, for example, to working in only industrial areas or bar him from working with the elderly or with children. Narrowly tailored licensing denials and approvals would help Ohio grant more licenses to worthy applicants while protecting public safety. Such tailoring provisions would strengthen House Bill 263's current approach, respecting individual rights by more closely tailoring approval to the ex-offender's criminal history.

If tailored licensing proves too burdensome for licensing boards, we recommend running the criminal law-related licensing process through the Ohio Department of Rehabilitation and Correction (DRC). When ex-offenders return to the community, DRC evaluates their needs. Such evaluations place DRC in the best position to consider which, if any, restrictions on an occupational license are reasonably necessary to protect the community.

Working within the proposed framework of House Bill 263, narrowly tailored licensing restrictions consonant with the facts and circumstances of an applicant's criminal history would maximize public safety and Ohio's workforce. Occupational licensing does not have to be a "yes" or "no" proposition. We propose a third answer: yes, but individually tailored to ensure the public's safety.

We applaud House Bill 263's individualized approach and commend the Committee for its commitment to occupational licensing and criminal justice reform.

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

### ***About The Buckeye Institute***

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

*The Buckeye Institute is a non-partisan, non-profit, and tax-exempt organization, as defined by section 501(c)(3) of the Internal Revenue code. As such, it relies on support from individuals, corporations, and foundations that share a commitment to individual liberty, free enterprise, personal responsibility, and limited government. The Buckeye Institute does not seek or accept government funding.*