



Occupational Licensing


Jon Sanders, Director of the Center for Food, Power, and Life at the John Locke Foundation
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A Constitutional Right

Article 1, Section 1 of the North Carolina State Constitution lists “the enjoyment of the fruits of their own labor” among North Carolinians’ “inalienable rights,” alongside life, liberty, and the pursuit of happiness.



*THE
CONSTITUTION
OF THE STATE OF
NORTH CAROLINA*

What Occupational Licensing Is

- Entry barrier to someone seeking to work in a desired field
- NC's "Most Restrictive" occupational regulation
- Use only for when "Risk to Public Welfare" is highest

Exhibit 1. Three Forms of Occupational Regulation Exist, Varying in Level of Restriction

Level of Restriction	Form of Occupational Regulation	Risk to Public Welfare	Characteristics
	Licensure	High	<ul style="list-style-type: none"> • Prohibits anyone from engaging in the activities covered by a "scope of practice" without permission from a government agency • Can be used to deny individuals the legal opportunity to earn livelihoods in their chosen fields
	Certification	Moderate	<ul style="list-style-type: none"> • Grants individuals the authority to use a protected occupational title but does not include a legal scope of practice • Individuals not certified may practice but may not use the protected title
	Registration	Low	<ul style="list-style-type: none"> • Requires individuals to list contact information with a designated government agency • As a general rule, the associated statutes do not require the individual to meet predetermined standards or pass an examination

Note: Scope of practice describes the procedures, actions, and processes that a practitioner is permitted to undertake in keeping with the terms of a professional license.

Source: Program Evaluation Division based on information provided by occupational licensing boards.

Source: Program Evaluation Division, North Carolina General Assembly, "Opportunities Exist to Further Ease Burdens on Military-Trained Applicants and Military Spouses in Obtaining Occupational Licensure," Report No. 2020-01, Feb. 2020, p.5

Extent of Licensure in NC

- NC Department of Commerce’s Business and Occupational Licensing Database: 931 licenses currently, including such things as privilege licenses and special events permitting
- Economic Development Partnership of NC: “There are almost 950 regulatory, state-issued and occupational licenses and permits: 319 occupational licenses, 498 business licenses, and 80 business/occupational licenses. In addition, a local license may be required for your business.”
- Institute for Justice, “License to Work” report, 2022: NC requires licenses for 66 out of 102 low-income occupations, and only 12 states require more licenses
- Note: Regulated practices exceed official counts of licensed occupations and depend on enterprising service providers



The screenshot shows the header of the NC Department of Commerce website. On the left is the state seal. To its right is the text "NC DEPARTMENT of COMMERCE LABOR & ECONOMIC ANALYSIS". Further right are the links "Home" and "About". Below the header is a section titled "NC Business and Occupational License Database". The main content area contains a welcome message: "Welcome to the North Carolina Business & Occupational License Database. You may need a license to operate a business or perform work in North Carolina. Discover the hundreds of business, occupational, and privilege licenses issued in North Carolina by searching this site. For more information about licenses in North Carolina, speak with a counselor at [EDPNC Small Business Advisors](#) by calling 1 (800) 228-8443."



Expected Benefits of Licensure

- Protect health, safety, and welfare of North Carolinians
- Ensure safety and quality of work in the licensed field



Expected Costs of Licensure

Costs to would-be workers include:

Forgone work, tuition and fees to satisfy educational credits, sitting fees for required qualifying exams, time spent logging job experience, criminal background checks, license and renewal fees.

These costs fall hardest on the poor, the less educated, minorities, mothers returning to the workforce, older workers seeking a new career, migrant workers, workers seeking better opportunities by moving across state lines, relocated military families, and even workers with conviction records unrelated to the work they seek to do.




Expected Costs of Licensure

Costs to consumers:

Higher prices for licensed work, fewer options, poor or dangerous alternatives, and OL board resistance to innovation in service provision that could have saved time and money

Costs to the state:

Limited growth in licensed occupations, less competition, fewer economic opportunities, and less wealth creation

An aerial photograph of a dense forest with a suspension bridge and a waterfall. The forest is lush and green, with a suspension bridge crossing a valley. A waterfall is visible in the center of the image, cascading down a rocky ledge. The overall scene is serene and natural.

The most generally held view on the economics of occupational licensing is that it restricts the supply of labor to the occupation and thereby drives up the price of labor as well as the services rendered.

— Labor economist Morris M. Kleiner

Licensure's Unintended Consequences

- Protections of licensure don't include the mutual benefits from competition
- Tends to protect established service providers from competitors and from disruptive innovation
- Which means consumers don't enjoy the benefits of more competition and fresh ideas
- Expected benefits prove elusive
- Higher costs lead consumers to seek poor or dangerous alternatives



Who Does the Work?

- Licensing focuses on input measures (education requirements, testing, etc.) of professional practice
- Consumers are interested in outcomes (quality and price of service received)
- High prices or waits could lead to putting off necessary work, DIY, getting a friend's help, under-the-table work, etc.
- Which explains counterintuitive research findings:
 - ❖ Stricter licensing of security guards → more property crimes
 - ❖ Stricter licensing of electricians → more electrocution accidents
 - ❖ Stricter licensing of optometrists → higher rates of blindness
 - ❖ Stricter licensing of dentists → greater rates of poor dental hygiene
 - ❖ Stricter licensing of veterinarians → higher incidence of rabies
 - ❖ Stricter licensing of mortgage brokers → higher foreclosure rates





Impacts on Low-Income Workers, Areas

- Entrepreneurship in low-income areas provides a “double dividend” of not only income to the entrepreneur, but needed goods, services, and even jobs in the community
- Entrepreneurship provides a “ladder out of poverty”
- Research finds that higher rates of licensure for low-income jobs results in lower rates of low-income entrepreneurship



Determining the Right Balance

Right to Earn a Living Act

- provides a framework for determining the proper amount of state regulation into an occupation

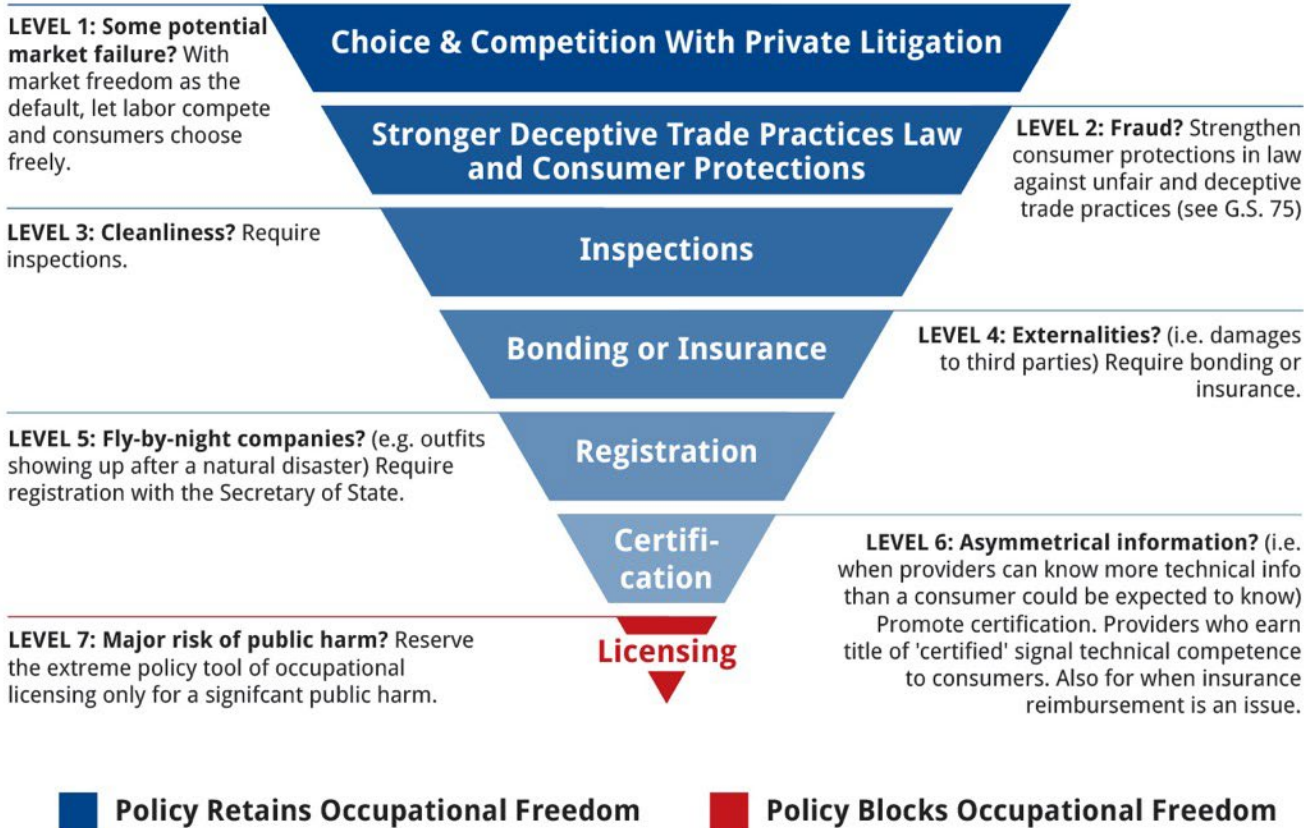
The occupational regulation would need to be:

- Restricted to legitimate health, safety, and welfare objectives
- Demonstrably necessary to address those objectives and go no further
- Carefully tailored to address only those objectives

Those terms give guidance to courts for what standards to apply in adjudicating disputes

How To Protect Consumers and Freedom, Too

Policy options to address legitimate concerns without going to the extreme of occupational licensing.



Note: Adapted from The Institute for Justice, "From Liberty to License: A Hierarchy of Regulatory Options"

Other Reforms to Consider

Universal License Recognition

- Passed in 19 states (most recently Virginia) so far
- Applicants must: hold a current license in another state, for at least a year, be in good standing and not under disciplinary action, have met all licensing requirements, not have a disqualifying criminal record, and pay all licensing fees

Occupational Licensing Consumer Choice Act

- Would extend consumer choice and occupational freedom even in many licensed fields
- Unlicensed professional could provide consumers a Non-License Disclosure form to sign attesting their lack of state licensure but listing their other professional credentials, outside state license, training, experience, certifications, etc.
- Consumers could make an informed choice to select this professional to do the work or not





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