



Two Regulatory Reforms to Protect Economic Freedom in North Carolina

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Occupational Licensing: An Extreme Policy Only for Extreme Cases

North Carolinians have a self-evident, inalienable right to “the enjoyment of the fruits of their own labor” — NC State Constitution, Article I, Section 1

Occupational licensing — entry barrier against people enjoying the fruits of their own labor in many kinds of jobs

The state’s “Most Restrictive” occupational regulation, only for when the “Risk to Public Welfare” is highest (Program Evaluation Division report, 2020)

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
Most Restrictive ↓ Least Restrictive	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.



Some Key Facts

- NC has 59 occupational licensing boards licensing 19 percent of the state's workforce
- NC ranks 11th in the State Occupational License Database
- NC licenses 66 of 102 lower-income professions tracked by the Institute for Justice, ranking 17th among the states
- According to the Economic Development Partnership of North Carolina, the state has "almost 950 regulatory, state-issued and occupational licenses and permits: 319 occupational licenses, 498 business licenses, and 80 business/occupational licenses"
- Of over 1,100 state-regulated professions, only 60 (a little over 5 percent) are regulated by all states

Layers of Policy Alternatives to Licensure

1

Voluntary, Hands-Off Options NO GOVERNMENT INTERVENTION

Market freedom with cooperation between consumers and service professionals

- ▶ Marketing, advertising, word-of-mouth
- ▶ Self-disclosure, guarantees, and quality assurance
- ▶ Independent review services, social media, curated customer experiences
- ▶ Voluntary third-party certification
- ▶ Voluntary bonding and insurance

2

Policy Alternatives SOME GOVERNMENT INTERVENTION

Government aiding in consumer protection without barring service professionals from work

- ▶ Lawsuits and private causes of action
 - ▶ Registration with the Secretary of State (to prevent fly-by-night businesses, such as those who show up trying to take advantage of people following natural disasters)
 - ▶ Enforcement of laws against unfair and deceptive trade practices, negligence, and fraud
 - ▶ Certification, credentialing, or specialty licensing granting exclusive privilege to use a protected occupational title without restricting the scope of work to other practitioners
 - ▶ State-mandated inspections (to ensure cleanliness)
 - ▶ Mandated bonding and insurance (to prevent externalities and address any damages to third parties)
- (to allay the problem of asymmetrical information, whereby a consumer cannot judge whether a professional is competent or not — and specialty licensing could be used for medical insurance reimbursement for emerging health care practices)

3

Occupational Licensing Extreme GOVERNMENT BARRIER TO ENTRY

Government forbids professional from work until all requirements for receiving a license are cleared and all fees are paid

- ▶ Occupational licensing granting exclusive privilege to work and zealous policing of activities within the license's scope of work

Recommendations

- **Universal License Recognition:** Licensed professionals moving here from other states wouldn't be prevented from working over a slight differences in state licensing standards
- **A Right to Earn a Living Act:** Make licensing the policy of last resort, and include tests for whether an occupational license is demonstrably necessary, carefully tailored, and designed for legitimate health, safety, and welfare objectives
- An independent **License Review Commission** or **sunset with periodic review** for all licensing boards and licenses: Take political concerns out of necessary review
- A standard of **Least Burdensome State:** NC shouldn't make it any harder here than elsewhere to perform licensed work
- *See the Locke Foundation's "Policy Solutions" and upcoming occupational licensing report for more*





Taking the REINS of Out-of-Control Regulations

- Rulemaking is a delegated lawmaking power
- NC Supreme Court (*Adams v. N.C. DENR*, 1978) found it proper for the General Assembly to delegate “a limited portion of its legislative powers” to agencies to deal with intricate matters
- It is not a power to be abused or treated lightly, however
- Same court warned: “such transfers of power [delegation] should be closely monitored to insure that the decision-making by the agency is not arbitrary and unreasoned and that the agency is not asked to make important policy choices which might just as easily be made by elected representatives in the legislature”

A man in a dark suit and light blue shirt is shown from the chest up, looking down with a focused expression as he attempts to cut through a large, tangled mass of red ribbon. The ribbon is thick and appears to be made of a heavy material, creating a complex web of loops and folds that he is struggling to break through. The background is a plain, light-colored wall.

Some Key Facts

- A 2015 study estimated that state regulations cost North Carolina's economy as much as \$25.5 billion
- Legislative process is more deliberative than rulemaking — it's easier to make rules than pass laws
- It's also hard to pass a law to disapprove a rule
- This setup favors rulemaking exceeding the legislature's intent in delegating lawmaking power

How REINS Addresses the Problem

- A REINS Act using legislative rule ratification is a proven, effective way to ensure legislative scrutiny of any rule that would impose costs on the state's private sector above a defined high-cost amount
- A bureaucrat's costly rule couldn't take effect if it wasn't debated and okayed by legislators accountable to the people
- It produces cooperation between the agency and the legislature during the rulemaking process



A white semi-truck is driving on a winding asphalt road that curves into the distance. The truck's trailer is covered with a large flag that has a blue field with a white star and yellow letters 'N' and 'C', a red field, and a white field. A yellow banner with the year '1776' is visible on the lower part of the flag. The background shows a sunset over a body of water with mountains in the distance. The sky is filled with orange and yellow clouds, and the sun is low on the horizon, creating a warm, golden glow. The road has a white line marking that curves along its edge.

Thank you

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