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OCCUPATIONAL REGULATION REVIEW

- Expands the definition of “occupational licensing board” for purposes of the General Assembly’s statutorily required review of those boards to include boards that issue certifications and business licenses that require an applicant to satisfy a personal qualification.
- Expands the scope of the Legislative Service Commission’s (LSC) statutorily required review of occupational regulations to include business licenses that require an applicant to satisfy a personal qualification.
- Clarifies that LSC shall continue to issue reports regarding all occupations subject to regulation by the state, including business licenses that require the applicant to satisfy a personal qualification, after January 1, 2025.
- Renews for six years the occupational licensing boards reviewed this biennium by the House State and Local Government committee.
- Prohibits an occupational licensing board from adopting, providing, approving for credit, counting for credit, or requiring completion of continuing education curriculum or coursework, seminars, webinars, or online instruction that promote specified concepts related to protected class membership.

General Assembly review

The bill expands the definition of “occupational licensing board” for purposes of the General Assembly’s statutorily required review of those boards to include boards that issue certifications and business licenses that require an applicant to satisfy a personal qualification. A

“certification” is a voluntary program in which a private organization or the state grants nontransferable recognition to an individual who meets personal qualifications established by the private organization or state law. “Personal qualification” means criteria related to an applicant’s personal background and characteristics including completion of an approved educational program, satisfactory performance on an examination, work experience, other evidence of attainment of requisite skills or knowledge, moral standing, criminal history, and completion of continuing education. However, the term “personal qualification” does not include a requirement that an owner or controlling persons of a business submit to a criminal records check or meet requirements related to criminal history or moral standing, unless that owner or controlling person is the applicant.¹

Under continuing law, The House of Representatives and the Senate must review one-third of the state’s occupational licensing boards each biennium – including all boards that are scheduled to expire at the end of the biennium. An occupational licensing board is triggered for expiration following the sixth year after it was created or last renewed by an act of the General Assembly. Under current law, an “occupational licensing board” for purposes of the General Assembly’s review is a board, commission, committee, council, or any other similar public body, agency, division, or office of state government that issues one or more occupational licenses. Current law defines an “occupational license” as a nontransferable authorization in law that an individual must possess to perform a lawful occupation for compensation based on meeting personal qualifications established by law.²

LSC review

Similarly, the bill expands the scope of the Legislative Service Commission’s (LSC) statutorily required review of occupational regulations to include business licenses that require an applicant to satisfy a personal qualification. The bill also clarifies that LSC must continue to issue reports regarding all occupations subject to regulation by the state, including business licenses that require the applicant to satisfy a personal qualification, after January 1, 2025.³

Current law requires LSC, over a six-year period including calendar years 2019 through 2024, to publish a biennial report comparing one-third of the state’s occupational regulations with the general state policy outlined in continuing law. For purposes of the law governing LSC’s review, the term “occupational regulation” is defined as a statute or rule that controls an individual’s practice of a trade or profession.⁴

¹ R.C. 101.62.

² R.C. 101.62 and R.C. 101.63 and 4798.01, not in the bill.

³ R.C. 103.27.

⁴ R.C. 103.27 and R.C. 103.26, not in the bill.

Renewal of occupational licensing boards

The bill renews until December 31, 2030, the occupational licensing boards that were reviewed by the House State and Local Government Committee during the 135th General Assembly.⁵ Those boards are as follows:

- The Ohio Peace Officer Training Commission;
- The State Cosmetology and Barber Board;
- The Accountancy Board;
- The Department of Agriculture;
- The Architects Board;
- The Ohio Landscape Architects Board;
- The Ohio Casino Control Commission;
- The following divisions within the Department of Commerce:
 - Division of Financial Institutions;
 - Division of Real Estate and Professional Licensing;
 - Division of Industrial Compliance; and
 - Division of Unclaimed Funds.
- The Department of Public Safety;
- The Department of Public Safety Bureau of Motor Vehicles;
- The State Board of Registration for Professional Engineers and Surveyors;
- The Department of Mental Health and Addiction Services;
- The State Racing Commission;
- The Secretary of State.⁶

Continuing education – prohibited topics

The bill prohibits an occupational licensing board from adopting, providing, approving for credit, counting for credit, or requiring completion of continuing education curriculum or coursework, seminars, webinars, or online instruction that promotes any of the following concepts:

⁵ Section 4.

⁶ See the [House State and Local Government Committee Occupational License Review Report \(PDF\)](#), which can be found by conducting a keyword search for “OLR report” on the General Assembly’s website: <http://www.legislature.ohio.gov>.

- An individual of a protected class is inherently superior or inferior to another protected class, and members of a protected class should be discriminated against solely or partly because of the individual's membership in a protected class.
- An individual, by virtue of the individual's membership in a protected class, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
- An individual's moral standing or worth is necessarily determined by the individual's membership in any protected class.
- An individual, by virtue of the individual's membership in any protected class, bears responsibility for the actions committed in the past by other members of the same protected class.
- Meritocracy or traits such as hard work ethic are racist or sexist, or were created by individuals of a particular protected class to oppress members of another protected class.

For purposes of the bill's prohibition, "protected class" means an individual's race, color, religion, sex, military status, national origin, disability, age, or ancestry, as those terms are used in Ohio's Civil Rights Law. "Occupational licensing board" means a board, commission, committee, council, or any other similar public body, agency, division, or office of state government that issues one or more occupational licenses, excluding the Supreme Court with respect to governing the practice of law. An "occupational license" is a nontransferable authorization in law that an individual must possess to perform a lawful occupation for compensation based on meeting personal qualifications established by law.⁷

DEPARTMENT OF AGRICULTURE

- Eliminates the requirement that an agricultural commodity tester be certified by the Director of Agriculture.
- Decreases the annual inflatable ride permit fee from \$225 to \$25 per inflatable ride.
- Restructures the inflatable ride inspection and reinspection fee by requiring an inflatable ride owner to pay a flat fee depending on the number of inflatable rides owned by the owner, instead of allowing the Director of Agriculture to establish a per-ride fee (up to \$104) as in current law.

Agricultural commodity tester

The bill eliminates the requirement that an agricultural commodity tester be certified by the Director of Agriculture. Under current law, an agricultural commodity tester is a person who operates a moisture meter and other quality testing devices to determine the quality of an

⁷ R.C. 4743.06, by reference to R.C. 4112.02 and 4798.01, not in the bill.

agricultural commodity (generally corn, soybeans, or wheat). For initial certification and renewal, a person must pass an examination on commodity testing and pay a \$25 application fee. In lieu of the examination for renewal, current law allows a person to complete training approved by the Director.⁸

Inflatable amusement ride fees

The bill decreases the annual inflatable ride permit fee an owner must pay to the Department of Agriculture from \$225 per inflatable ride to \$25 per inflatable ride. It also removes the requirement that the Director of Agriculture prorate the permit fee if the permit is issued for a period of less than one year.

Additionally, the bill restructures the inflatable ride inspection and reinspection fee. Generally, inspections are performed on an annual basis and reinspections are performed as needed, usually because of a complaint or incident involving a ride. Under current law, an owner must pay an inspection and reinspection fee per ride in an amount established in rules adopted by the Director. However, that fee must reasonably reflect the cost of inspection and cannot be more than \$104. Under the adopted rules, the inflatable ride inspection and reinspection fee currently is \$104. The bill eliminates the Director's authority to establish the inflatable ride inspection and reinspection fee. Instead, it specifies that the fee is based on the number of inflatable rides the owner owns (a business fee rather than a per-ride fee) and is calculated as follows:⁹

Inflatable ride owner inspection and reinspection fees	
Number of inflatable rides owned by the owner	Flat fee
1-10 inflatable rides	\$150
11-25 inflatable rides	\$350
26 or more inflatable rides	\$500

ARCHITECTS BOARD

- Reduces the biennial renewal fee for a certificate of qualification to practice architecture to \$100 from \$125.

⁸ R.C. 926.01, 926.12, 926.19, 926.30, repealed, and 926.31; Ohio Administrative Code (O.A.C.) 901:7-2-11.

⁹ R.C. 993.04(E)(1).

Renewal fee

The bill reduces the biennial renewal fee for a certificate of qualification to practice architecture to \$100. Under current law, the Architects Board must adopt a rule establishing the renewal fee, and the Board has set the renewal fee at \$125. The bill removes the requirement that the Board establish the fee in rule.¹⁰

CASINO CONTROL COMMISSION

- Requires the Ohio Casino Control Commission to set the key employee license application fee at no more than \$1,750 for in-state applicants and no less than \$5,000 for out-of-state applicants.

Key employee license application fee

The bill specifies the fee amount for a key employee license application. Under current law, the Ohio Casino Control Commission is required to set the fee amount by rule in an amount “to cover all actual costs generated by each licensee and all background checks.”¹¹ At the time of writing this analysis, the Commission has adopted a rule stating that the key employee license application fee is \$2,000.¹² The bill alters the fee structure to require that the Commission set the fee to no more than \$1,750 for Ohio residents and no less than \$5,000 for other applicants.

The Commission also has stipulated by rule that a casino operator employing the applicant must pay the applicant’s key employee license application fee on the applicant’s behalf. Furthermore, a casino operator, management company, gaming-related vendor, or holding company otherwise sponsoring the applicant may pay this fee on behalf of the applicant. The bill does not appear to affect these rules, aside from the fee amount.

It may be worth noting that under current law, the Commission also is permitted to set another fee for key employee licensure, separate from the application fee.¹³ The key employee license fee is set by the Commission in rule at \$500, and a casino operator employing the applicant must pay the license fee on behalf of the key employee license holder. Furthermore, a casino operator, management company, gaming-related vendor, or holding company otherwise sponsoring the applicant may pay this fee on behalf of the key employee license holder.¹⁴ The bill does not appear to affect any provisions of law regarding the key employee license fee.

¹⁰ R.C. 4703.16 and O.A.C. 4703-1-04.

¹¹ R.C. 3772.13(F).

¹² O.A.C. 3772-5-03(A).

¹³ R.C. 3772.17(E), not in the bill.

¹⁴ O.A.C. 3772-5-03(D).

“Key employee” definition

A “key employee” under continuing law means any executive, employee, agent, or other individual who has the power to exercise significant influence over decisions concerning any part of the operation of a person that has applied for or holds a casino operator, management company, or gaming-related vendor license or the operation of a holding company of a person that has applied for or holds a casino operator, management company, or gaming-related vendor license. Examples of a key employee include:

- An officer, director, trustee, partner, or an equivalent fiduciary;
- An individual who holds a direct or indirect ownership interest of 5% or more;
- An individual who performs the function of a principal executive officer, principal operating officer, principal accounting officer, or an equivalent officer;
- Any other individual the Commission determines to have the power to exercise significant influence over decisions concerning any part of the operation.¹⁵

DEPARTMENT OF COMMERCE

Division of Industrial Compliance

- Extends the duration of a backflow technician certification to five years from three years.
- Establishes a \$75 fee for the five-year renewal, which is the fee for the current three-year renewal.
- Reduces the application fee to take the examination for a boiler and pressure vessel inspector certification from \$150 to \$100.
- Caps the annual fee the Director of Commerce may charge for a certificate of competency or commission as a boiler and pressure vessel inspector at \$50.
- Reduces the application fee for a steam engineer, high pressure boiler operator, or low pressure boiler operator license from \$75 to \$25.
- Reduces the initial and renewal fee for a manufactured home installer’s license to \$150 from \$250.

Backflow technicians

The bill extends the duration of a backflow technician certification to five years from three years. Under continuing law, the Superintendent of Industrial Compliance adopts rules regulating the certification of backflow technicians. Among other requirements, the rules the

¹⁵ R.C. 3772.01(P), not in the bill.

Superintendent adopts must include specifications and procedures for renewing a certification. Current rules specify a three-year renewal cycle and a \$75 renewal fee. The bill requires the Superintendent to adopt a rule specifying that a backflow technician certification be renewed every five years and establish the five-year renewal fee at \$75.¹⁶

A backflow technician certification issued before the bill's effective date must be renewed in accordance with any rules adopted before the bill's effective date.¹⁷

Boiler and pressure vessel inspectors

The bill reduces the application fee to take the examination for a boiler and pressure vessel inspector certification from \$150 to \$100. It also caps the annual fee the Director of Commerce may charge to renew a boiler or pressure vessel inspector certificate of competency or commission at \$50.¹⁸

Steam engineers and boiler operators

The bill reduces the application fee for a steam engineer, high pressure boiler operator, or low pressure boiler operator license to \$25.

Currently, the application fee is \$75. However, the Superintendent may increase the fee if the increase bears a reasonable relationship to the cost of administering and enforcing the state's boiler regulations. The bill prohibits the Superintendent from increasing the steam engineer, high pressure boiler operator, or low pressure boiler operator license application fee.¹⁹

Manufactured home installers

The bill reduces the initial and renewal fees for a manufactured home installer's license to \$150. Under current law, the Superintendent establishes initial and renewal fees in rule and has set both the initial fee and the renewal fee at \$250. The bill removes the Superintendent's authority to set the fee and instead sets it at \$150.²⁰

MOTOR VEHICLE REPAIR BOARD

- Eliminates the requirement that a person or entity be registered as a motor vehicle repair operator to act as a vehicle collision repair operator or window tint operator.
- Abolishes the Motor Vehicle Repair Board.
- Transfers Board records, assets, and liabilities to the Department of Public Safety, which is successor to, and assumes the obligations of, the Board.

¹⁶ R.C. 3703.21 and O.A.C. 1301:3-7-05.

¹⁷ Section 5.

¹⁸ R.C. 4104.07 and 4104.08.

¹⁹ R.C. 4104.18.

²⁰ R.C. 4781.08 and O.A.C. 4781-8-01.

Motor vehicle repair operator

The bill eliminates the requirement that a person or entity be registered with the Motor Vehicle Repair Board as a motor vehicle repair operator in order to act as a:

- Motor vehicle collision repair operator; or
- Motor vehicle window tint operator.

Under current law, a collision repair operator is any person or entity that, in a calendar year, engages in restorative or replacement procedures that are performed on and affect or potentially affect the structural, life safety, and cosmetic components of five or more damaged vehicles. A window tint operator is any person or entity that installs tinted glass or other similar materials on five or more vehicles in a calendar year.²¹

Board abolishment

The Board is abolished on the bill's effective date. All Board records, assets, and liabilities are to be transferred to the Department of Public Safety. The Department is the Board's successor and assumes its obligations. Any business commenced, but not completed, by the Board or its Executive Director must be completed by the Director of Public Safety in the same manner, and with the same effect, as if completed by the Board or its Executive Director. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired because of the Board's abolishment.

Wherever the Board or its Executive Director is referred to in any law, contract, or other document, the reference refers to the Department of Public Safety or its Director, whichever is appropriate.

The Director of Budget and Management must cancel any encumbrances against an existing appropriation providing for the Board's operating expenses and reestablish them against another appropriation selected in consultation with the Director of Public Safety. The bill makes an appropriation for the reestablished encumbrance amounts.

An action or proceeding pending on the bill's effective date is not affected by the Board's abolishment. Any lawsuit or proceeding must be brought or defended in the Department's or Director's name. In all lawsuits or proceedings, the Department or Director, on application to court, must be substituted as a party.

All Board employees cease to be employed on the bill's effective date, or as soon as possible after that.²²

²¹ R.C. Chapter 4775, repealed, with conforming changes in R.C. 107.56, 4513.241, 4743.05, and 4745.01.

²² Section 7.

OHIO PEACE OFFICER TRAINING COMMISSION

- Prohibits the adoption of administrative rules requiring jail support staff to obtain an occupational license.

Jail support staff

The bill prohibits the Director of Rehabilitation and Correction from adopting any rule requiring support staff in a jail to obtain an “occupational license.”²³ Under continuing law, an occupational license is any nontransferable authorization in law that an individual must possess in order to perform a lawful occupation for compensation based on meeting personal qualifications established by a statute or rule.²⁴

As part of the Director’s general duty to establish minimum standards for Ohio’s jails, the Director has adopted rules requiring jail support staff to meet personal qualifications. Under the rules, support staff having routine contact with inmates must have general training in jail policies and procedures, 24 hours of specialized training, and two hours of in-service training per year. Jail support staff that have occasional inmate contact must receive only jail policy and procedure training. The Ohio Peace Officer Training Academy offers this training.²⁵

DEPARTMENT OF PUBLIC SAFETY

- Eliminates the requirement that a person be licensed in order to practice as a driver training manager or a commercial training manager.
- Extends the duration of private investigation and security licenses to three years from one year under current law.

Driver training managers

The bill eliminates the requirement that a person have a license to practice as either a driver training manager or a commercial training manager in association with the driver training schools. Under current law, the driver training manager and commercial training manager oversee the instructors and the education of driver education for students at either a standard driver training school or a commercial motor vehicle driver training school, as applicable. The manager licenses are required by rule, and all managers must be licensed instructors as well.²⁶

²³ R.C. 5120.10.

²⁴ R.C. 4798.01, not in the bill.

²⁵ R.C. 5120.10 and O.A.C. 109:2-9-02 and 5120:1-8-18.

²⁶ R.C. 4508.04.

Private investigation and security services licenses

The bill extends the duration of private investigation and security services licenses from one year to three years. Currently, all private investigation and security services licenses expire on the first day of March after issuance, and on March 1 annually thereafter. A license issued before the bill's effective date expires on the first day of March after it was issued in accordance with current law. After being renewed, the license expires on the first day of March every three years. A license issued after the bill's effective date expires three years after the date of issuance.²⁷

Under continuing law, an individual or business may obtain one the following licenses:

- A "Class A" license to engage in the business of private investigation and the business of security services;
- A "Class B" license to engage only in the business of private investigation;
- A "Class C" license to engage only in the business of security services.

Each class A, B, and C licensee must register the licensee's investigator or security guard employees with the Department of Public Safety. The Department maintains a record of each licensee and its registered employees.²⁸

DEPARTMENT OF PUBLIC SAFETY – BUREAU OF MOTOR VEHICLES

- Eliminates the requirement that a motor vehicle salesperson be licensed to sell motor vehicles in Ohio.
- Eliminates the construction equipment auction license.
- Eliminates the application fee for a salvage motor vehicle auction license.

Motor vehicle sales and auction licenses

The bill eliminates the licensure requirement for two professions related to motor vehicle sales and auctions: namely, the motor vehicle salesperson and the construction equipment auction license. Thus, a person may sell motor vehicles for a licensed motor vehicle dealer (new, used, or leasing) without having a separate motor vehicle salesperson license. The bill makes

²⁷ R.C. 4749.03 and Section 6.

²⁸ R.C. 4749.03 and R.C. 4749.01 and 4749.06, not in the bill.

corresponding changes related to motor vehicle dealers, and eliminates the requirement that they keep lists of their licensed salespersons as proof that their employees are licensed.²⁹

While the bill eliminates the construction equipment auction license, which authorizes the holder to auction large construction or transportation equipment, it does not eliminate the general motor vehicle auction owner license or licenses for auctioneers. Thus, a person wishing to engage in the business of auctioning large construction or transportation equipment would likely need to have either a motor vehicle auction owner (R.C. Chapter 4517) or auctioneer (R.C. Chapter 4707) license.³⁰

The bill additionally eliminates the \$100 application fee for a salvage motor vehicle auction license. Under current law, the fee is due at the time of initial application and at the time of renewal every two years.³¹

STATE RACING COMMISSION

- Relocates and makes changes to the law governing the authority of the State Racing Commission (RAC) to issue licenses to persons involved in the horse racing industry.
- Requires RAC to adopt rules under the Administrative Procedure Act regarding each license to be issued, and specifies that no RAC license is required to engage in any activity that is not indicated in RAC's rules as requiring a license.
- Exempts the RAC occupational licensing rules adopted during the first year after the bill takes effect from continuing law limits on regulatory restrictions in state agency rules.
- Eliminates licensing requirements for persons who perform only duties at a race track facility that do not affect the conduct or outcome of horse racing or of wagering on horse racing.
- Eliminates licensing requirements for companies and individuals who sell supplies at race tracks.
- Eliminates the annual license fees for admission employees and valets.

All licenses to be prescribed by rule

The bill relocates and makes changes to the law governing the authority of the State Racing Commission (RAC) to issue licenses to persons involved in the horse racing industry. First, the bill explicitly requires RAC to adopt rules under the Administrative Procedure Act concerning each license to be issued, including all of the following for each license:

²⁹ R.C. 4517.02, 4517.04, 4517.10, 4517.33, 4517.43, 4549.50, and 4781.17; R.C. 4517.09, repealed.

³⁰ R.C. 4517.01, 4517.02, and 4517.33; R.C. 4517.16, 4517.17, 4517.171, and 4517.18, repealed.

³¹ R.C. 4738.05.

- The name of the license;
- The activities regulated under the license;
- The qualifications and other requirements to receive and maintain the license;
- The fees that apply to the license.

Current law allows RAC to license persons engaged in horse racing, as well as employees of race tracks, and also allows RAC to adopt administrative rules. But, the law does not explicitly require RAC to adopt all of its licensing requirements by rule.³² RAC's existing rules name the licenses to be issued and the associated fees, but for many licenses, the rules do not describe the activities regulated under the license or any qualifications to receive the license. Those licensing matters appear to be managed by written or unwritten policy instead of by rule.³³

Further, under the bill, no RAC license is required to engage in any activity that is not indicated in RAC rules as requiring a license. This provision prevents RAC from establishing any license requirement by policy instead of by rule. And, it would appear to eliminate the "special" category of licenses that are listed by name in current RAC rules and require the payment of a fee, but do not include any description of the activities covered by the license.³⁴

For a period of one year after the bill takes effect, with respect to RAC's new occupational licensing rules, the bill exempts RAC from the continuing law requirement that an agency eliminate two regulatory restrictions for each new restriction it adopts. And, under the bill, occupational licensing rules adopted during that one year period are not included in RAC's baseline inventory of regulatory restrictions for purposes of the continuing law cap on each agency's total number of regulatory restrictions.³⁵

Elimination of certain licenses

Nonhorse racing employees

Under the bill, no RAC license is required to perform only duties at a race track facility that do not affect the conduct or outcome of horse racing or of wagering on horse racing, including any of the following:³⁶

- Admitting patrons to the facility or assisting them with parking;
- Preparing or serving food or beverages;
- Cleaning or maintaining the facility;

³² R.C. 3769.03 and 3769.031(A) and (B).

³³ O.A.C. 3769-2-24(A). More generally, see O.A.C. Chapter 3769-2 for RAC's current licensing rules.

³⁴ R.C. 3769.031(D)(3) and O.A.C. 3769-2-24(A).

³⁵ R.C. 3769.031(E). See also R.C. 121.95 to 121.953, not in the bill.

³⁶ R.C. 3769.031(D)(1).

- Providing security services at the facility.

This provision would appear to eliminate the following existing licenses and their accompanying annual fees: chief of security (\$50), security (\$15), concession manager (\$50), concession employee (\$15), maintenance (\$15), and parking lot employee (\$15).³⁷ The current Casino Law and Sports Gaming Law include similar exceptions to occupational license requirements for individuals whose duties are related solely to nongaming activities.³⁸

Supply sales

The bill also specifies that no RAC license is required to sell supplies at a race track facility. This provision would eliminate the existing licenses for a supply sales owner (\$100 annually), who owns a company that sells wares on a race track, and for a supply salesperson (\$15 annually), who sells wares on a race track on behalf of an owner.³⁹

Elimination of certain license fees

Finally, the bill eliminates the \$15 annual license fees for admission employees and valets. An admission employee assists horse racing participants in entering a race track facility, while a valet assists a jockey by cleaning and preparing the jockey's racing apparel, equipment, and horse tack for each race.⁴⁰

HISTORY

Action	Date
Introduced	07-11-23

ANHB0238IN-135/ar

³⁷ O.A.C. 3769-2-24(A).

³⁸ R.C. 3772.131(A)(6) and R.C. 3775.06(A)(2), not in the bill.

³⁹ R.C. 3769.031(D)(2) and O.A.C. 3769-2-24(A).

⁴⁰ R.C. 3769.031(C) and O.A.C. 3769-2-24(A).