

Department of Professional and Occupational Regulation  
November 19, 2021

---

# REPORT ON HOUSE JOINT RESOLUTION 561

Evaluation of the Efficacy of the Commonwealth's  
Occupational Licensing Laws for Construction Trades





# COMMONWEALTH of VIRGINIA

Department of Professional & Occupational Regulation

Ralph S. Northam  
Governor

Mary Broz-Vaughan  
Director

November 19, 2021

The Honorable Eileen Filler-Corn, Speaker  
Speaker's Room, State Capitol  
Post Office Box 406  
Richmond, Virginia 23218

Dear Madam Speaker:

The Department of Professional and Occupational Regulation (DPOR) respectfully submits the following report pursuant to your letter dated April 28, 2021, wherein you referred the subject matter contained in House Joint Resolution 561 for study.

HJ 561, as introduced during the 2021 Session of the General Assembly by Delegate Guzman, directed an evaluation of "the efficacy of the Commonwealth's occupational licensing laws for construction trades." DPOR convened a group of stakeholders representative of multiple perspectives from the construction industry. This report outlines the findings and recommendations informed by the Trade Exploration Work Group.

Should you require any additional information on this matter, Eric L. Olson, Executive Director of the Board for Contractors, is available to assist you. Mr. Olson can be reached at (804) 367-9183.

Kindest regards,

A handwritten signature in black ink, appearing to read "Mary Broz-Vaughan".

Mary Broz-Vaughan  
Director

Cc: The Honorable Elizabeth Guzman

# Table of Contents

<b>Executive Summary</b> .....	4
<b>Introduction</b> .....	5
<b>Trade Exploration Work Group Members</b> .....	5
<b>Study Methodology</b> .....	5
Criteria .....	6
Degrees of Regulation .....	7
<b>Construction Industry Regulatory Framework</b> .....	7
<b>Shared Oversight Responsibility</b> .....	7
Department of Professional and Occupational Regulation .....	7
Department of Labor and Industry .....	8
Department of Housing and Community Development .....	8
<b>Occupational Licensing Enforcement</b> .....	8
Employment Law Applicability .....	8
Disciplinary Statistics .....	9
Criminal Prosecution .....	9
<b>Construction Trades Licensing Primer</b> .....	9
Contractor Licensure vs. Individual Certification .....	9
Qualified Individual (QI) .....	10
Prohibited Acts .....	11
<b>Discussion</b> .....	11
<b>Recommendations</b> .....	12
Establish new voluntary certifications for five construction trades .....	12
Promote increased focus and funding for unlicensed activity prosecution .....	13
Exempt apprentices from exam requirement for journeyman license .....	13
Accept more national certification programs as substantially equivalent .....	14
Recognize contractor businesses for hiring more licensed tradesmen .....	14
<b>Appendices</b> .....	15
<b>DPOR Staff Acknowledgements</b> .....	19

## Executive Summary

The Speaker of the House of Delegates referred the subject matter in House Joint Resolution 561 to the Department of Professional and Occupational Regulation (DPOR) for study. The legislation, introduced by Delegate Elizabeth Guzman during the 2021 Session of the General Assembly, directed an evaluation of “the efficacy of the Commonwealth’s occupational licensing laws for construction trades.”

DPOR convened the Trade Exploration Work Group, a committee comprised of representatives of multiple organizations from the construction industry. After assessing the regulatory framework and research findings against statutory criteria for occupational licensing, the Work Group adopted proposals that enjoy broad, though not unanimous, support.

Representatives of commercial and residential contractors are unable to endorse additional regulation on principle, even if certification is initially established on a voluntary basis, given that the public appears adequately protected with the existing system. Labor advocates continue to push for more individual licensing requirements, increased enforcement, and attention to wage theft and misclassification.

The Trade Exploration Work Group recommends five actions to promote a well-trained workforce without overregulating the industry:

- Establish new voluntary certifications for five construction trades;
- Promote increased focus and funding for unlicensed activity prosecution;
- Exempt apprentices from exam requirement for journeyman license;
- Accept more national certification programs as substantially equivalent; and
- Recognize contractor businesses for hiring more licensed tradesmen.

## Introduction

In presenting House Joint Resolution 561 before the House Committee on Rules during the 2021 Session of the General Assembly, the patron Delegate Guzman described the proposal as a bill to protect workers as well as the public. The resolution called for an evaluation of the effectiveness of Virginia’s occupational licensing laws for construction trades in achieving the stated goal of “ensuring safer job sites and high-quality construction.”

In lieu of passage, the Speaker of the House referred the subject matter of HJ 561 to the Department of Professional and Occupational Regulation (DPOR) for study. In response to the referral by letter, DPOR convened the Trade Exploration Work Group, a committee comprised of representatives of multiple organizations from the construction industry.

## Trade Exploration Work Group Members

Jason Ascher	Mid-Atlantic Pipe Trades Association
Courtney Baker	Associated General Contractors of Virginia
Mary Broz-Vaughan	DPOR Director
Marta Fernandes	DOLI Occupational Safety Compliance
Jeffery Hux	Plumber, Board for Contractors
Destiny LeVere	Virginia AFL-CIO
Rudy Middleton	Electrician, Board for Contractors
Patricia Morrison	DOLI Registered Apprenticeship Programs
David Owen	Home Builders Association of Virginia
Jason Parker	Virginia State Building and Construction Trades Council
Matthew Roberts	Chesterfield County Public Schools
Shannon Webster	DPOR Workforce Development
Jason Wheeler	Eastern Atlantic States Regional Council of Carpenters

In addition, the following individuals participated in both meetings of the Work Group and provided valuable information and insight:

Jack Dyer	Commercial Contractor
Lou Spencer	Plumbers & Gasfitters Local 5

## Study Methodology

To assist the Work Group in its evaluation, DPOR staff informed members about Virginia’s balanced two-prong approach to occupational regulation. According to the Joint Legislative Audit and Review Commission (JLARC)<sup>1</sup>:

The decision to regulate an occupation should consider two priorities: the need to **protect the public** and the need to **avoid placing unnecessary restrictions** on individuals and businesses entering the workforce.

---

<sup>1</sup> [Operations and Performance of the Department of Professional and Occupational Regulation \(2008\)](#)

In cases where an evaluation identifies a potential risk to the public's health, safety, and welfare from an unregulated profession or occupation, but other criteria are insufficient to substantiate a regulatory program, policymakers must consider less restrictive means to protect the public than interfering in the occupational property rights of individuals.<sup>2</sup>

If a study indicates that a regulatory program is justified for public protection, the evaluation must assess the criteria against the degrees of regulation, from least restrictive (civil and criminal action) to most restrictive (licensure).

## Criteria

In determining the proper degree of regulation, if any, Va. Code § 54.1-311.B enumerates the following factors for consideration:

1. Whether the practitioner, if unregulated, performs a service for individuals involving a hazard to the public health, safety or welfare.
2. The opinion of a substantial portion of the people who do not practice the particular profession, trade or occupation on the need for regulation.
3. The number of states which have regulatory provisions similar to those proposed.
4. Whether there is sufficient demand for the service for which there is no regulated substitute and this service is required by a substantial portion of the population.
5. Whether the profession or occupation requires high standards of public responsibility, character and performance of each individual engaged in the profession or occupation, as evidenced by established and published codes of ethics.
6. Whether the profession or occupation requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that he has met minimum qualifications.
7. Whether the professional or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession or occupation.
8. Whether current laws which pertain to public health, safety and welfare generally are ineffective or inadequate.
9. Whether the characteristics of the profession or occupation make it impractical or impossible to prohibit those practices of the profession or occupation which are detrimental to the public health, safety and welfare.
10. Whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner.

---

<sup>2</sup> Va. Code § 54.1-100

## Degrees of Regulation

In evaluating the appropriate level of regulation of construction trades, the Work Group referred to the statutory parameters outlined in § 54.1-311.A, considering the following degrees of regulation in order:

- 1. Private civil actions and criminal prosecutions**

Whenever existing common law and statutory causes of civil action or criminal prohibitions are not sufficient to eradicate existing harm or prevent potential harm, first consider the recommendation of statutory change to provide stricter causes for civil action and criminal prosecution.

- 2. Inspection and injunction**

Whenever current inspection and injunction procedures are not sufficient to eradicate existing harm, consider recommending more adequate inspection procedures and to specify procedures whereby the appropriate regulatory entity may enjoin an activity which is detrimental to the public well-being. Recommend to the appropriate agency of the Commonwealth that such procedures be strengthened or recommend statutory changes in order to grant the appropriate state agency the power to provide sufficient inspection and injunction procedures.

- 3. Registration**

Whenever it is necessary to determine the impact of the operation of a profession or occupation on the public, recommend a system of registration.

- 4. Certification**

When the public requires a substantial basis for relying on the professional services of a practitioner, recommend a system of certification.

- 5. Licensing**

Whenever adequate regulation cannot be achieved by means other than licensing, recommend licensing procedures for any particular profession or occupation.

## Construction Industry Regulatory Framework

### Shared Oversight Responsibility

The subject matter of HJ 561 is regulated by three different agencies with distinct missions, jurisdictions, and areas of expertise. While all three agencies enjoy an excellent collaborative relationship developed over many decades, it should be noted they are no longer collocated under the same secretariat; DPOR and DOLI have been moved under the Department of Labor.

### Department of Professional and Occupational Regulation

The Board for Contractors (Board) at DPOR is responsible for the licensing and certification of minimally competent individuals and businesses in the construction industry, as well as the administrative enforcement of statutes and regulations pertaining to standards of practice and conduct.

The Board’s legal jurisdiction extends only to licensed contractors and tradesmen, however, with disciplinary authority to require remedial education, impose a fine, suspend or revoke the license, or fail to renew a license—and only after complying with the due process provisions set forth in the Administrative Process Act (§ 2.2-4000 et seq.).

The Board has no authority over unlicensed contractors, nor does it regulate jobsites or workplace safety. Unlicensed practice is a criminal offense (§ 54.1-111), punishable as a Class 1 misdemeanor if local Commonwealth’s Attorneys choose to pursue charges; DPOR is not a law enforcement agency with prosecutorial power.

## Department of Labor and Industry

The Department of Labor and Industry (DOLI) administers the Virginia Occupational Safety and Health (VOSH) program, the Commonwealth’s counterpart to the federal Occupational Safety and Health Administration (OSHA). DOLI conducts onsite inspections of construction projects to enforce occupational safety laws and regulations. If a jobsite inspection suggests unlicensed or improperly licensed contractors, DOLI refers the matter to DPOR for investigation of the licensing issue.

In addition, DOLI administers the Virginia Registered Apprenticeship program, an employment training model that combines on-the-job training and related technical instruction to produce a well trained workforce. The DOLI Labor and Employment Law Division investigates complaints of unpaid wages.

## Department of Housing and Community Development

The Board of Housing and Community Development at the Department of Housing and Community Development (DHCD) develops and administers the Virginia Uniform Statewide Building Code (USBC). DHCD also oversees the mandatory state certification program for local government code officials and independent third-party inspectors.

The State Building Code Technical Review Board at DHCD is responsible for hearing appeals from code enforcement actions and providing interpretations of the USBC. The Board for Contractors does not enforce the USBC, though it may discipline a licensee for failing to *abate* a code violation.

# Occupational Licensing Enforcement

## Employment Law Applicability

Work Group members affiliated with labor organizations, who identified themselves as the impetus for the resolution, expressed primary concern about enforcement of laws prohibiting wage theft and employee misclassification. Both issues, however, are outside the scope occupational licensing and the HJ 561 study directive.<sup>3</sup>

Occupational licensing is intended to protect the public from incompetent practice—establishing and enforcing a floor for construction quality, not a ceiling—whereas worker protections and jobsite safety are governed by DOLI/VOSH and OSHA.

---

<sup>3</sup> The Labor Law and State Capital Construction Process Workgroup established in the Appropriations Act is tasked with examining wage theft and employee misclassification (Item 111.10, Chapter 552, 2021 Special Session I).



## Disciplinary Statistics

Of all disciplinary cases adjudicated by the Board for Contractors since 1996, less than 20 percent involve complaints about work performed improperly, incompetently, or negligently. After removing duplicate data for those contractors with multiple disciplinary cases brought before the Board over the same 25 year period, the percentage of adjudicated cases in those categories falls to below 10 percent.

The vast majority of adjudicated cases involve contractors that demonstrate poor business practices, are undercapitalized, or experience unfortunate circumstances that force them to shut down their businesses (i.e., the Great Recession).

Despite an abundance of anecdotal evidence from those who have had a personal experience with, or heard from a friend or relative about, an incompetent contractor, the statistics do not align. Nonetheless, even when presented with the data, several members of the Work Group remain convinced that expanding the number of individual certification programs would be beneficial for the construction industry and, in the long run, for the public.

## Criminal Prosecution

Some Work Group members expressed concerns about the detrimental effects of unlicensed or improperly licensed individuals on both the safety and quality of construction projects. According to Lou Spencer, a member of the public attending the meetings who represents Plumbers & Gasfitters Local 5, the northern Virginia region is “like the Wild West” with regard to enforcement of licensing requirements and, in certain circumstances, job sites have become unsafe because of the work that is being performed by unqualified individuals.

Alternatively, other Work Group members suggested the existing practice of holding contractors responsible for the work performed under their license by employees remains appropriate. They warn that the financial impact from requiring licensure for every individual on a jobsite would be devastating to the industry.

However, all agreed that meaningful deterrence of unlicensed activity is complicated given that prosecution of the misdemeanor offense must compete for local resources among other prosecutorial priorities. COVID-19 closures and delays, along with local staffing and funding issues, only exacerbate the problem, with some localities reportedly no longer prosecuting any non-violent misdemeanors.

## Construction Trades Licensing Primer

### Contractor Licensure vs. Individual Certification

Eric Olson, Executive Director of the Board for Contractors, presented the work group with an overview of occupational regulation as it pertains to the construction industry.

In Virginia, contractor licenses are issued to business entities (e.g., sole proprietor, partnership, LLC, corporation). Individual licenses<sup>4</sup> are issued to tradesmen—plumbers, electricians, HVAC technicians, and gas-fitters—backflow prevention device workers, elevator mechanics and accessibility mechanics, water well systems providers, drug lab remediators, and fire sprinkler inspectors.

---

<sup>4</sup> Although the term “certified” is used in statute, state certification of these trades is mandatory, not optional.

Entry qualifications for occupational licenses are based on a standard of minimum competency necessary to protect the public, not to enhance professional stature or restrict competition.

Contractor licenses consist of two parts:

1. **Class (A, B or C)**, which determines what, if any, monetary restrictions are placed on the size of contracts/projects to be performed by the business;<sup>5</sup> and
2. **Classification/specialty**, which delineates the type of work the contractor is allowed to perform.<sup>6</sup>

Contractors are assigned at least one of 55 classifications/specialties—such as residential building (RBC), plumbing (PLB), home improvement (HIC), roofing (ROF), etc.—that defines the scope of practice allowed under the license. Practicing outside one’s license classification or specialty is a regulatory violation subject to disciplinary action by the Board.

The individual or tradesman with the requisite experience and skill in each particular specialty that is “attached” to the license is called the Qualified Individual. (A person may be the QI for more than one classification or specialty).

### Qualified Individual (QI)

All business entities must name a Qualified Individual (QI) for each of the classifications/specialties listed on their contractor application. The QI must meet the following criteria:

1. Be a full-time employee or a member of the firm’s Responsible Management;
2. Demonstrate verifiable work experience<sup>7</sup> in the area of practice sought (e.g., building, plumbing, roofing, etc.); and
3. Hold a valid license/certification (for certain trade-related and nationally certified fields listed in **Table 1**) or pass a technical examination (for all other classifications/specialties).

Table 1

Classification/Specialty	Qualified Individual Requirement
Asbestos (ASB)	Valid supervisors license from ALHI Board
Accessibility Services (ASC)	Valid Accessibility Mechanic Certification
Accessibility Services with LULA (ASL)	Valid Accessibility Mechanic Certification with LULA
Blast/Explosive (BEC)	Valid blaster certification from State Fire Marshal Office
Electrical (ELE)	Valid Master ELE Tradesman License
Elevator/Escalator (EEC)	Valid Elevator Mechanic Certification
Fire Sprinkler (SPR)	Valid NICET III certification
Gas Fitting (GFC)	Valid Master Gas-Fitter Tradesman License
HVAC (HVA)	Valid Master HVAC Tradesman License
Lead Abatement (LAC)	Valid supervisors license from ALHI Board
Liquefied Petroleum Gas (LPG)	Valid Master LPG Tradesman License
Manufactured Home Contracting (MHC)	Valid Manufactured Housing Installer Certification from Department of Housing and Community Development
Natural Gas Fitting Provider (NGF)	Valid Master Natural Gas Fitter Tradesman License
Plumbing (PLB)	Valid Master Plumbing Tradesman License
Radon Mitigation (RMC)	Valid EPA, NRMPP, NEHA or NRSFB certification
Sewage Disposal System (SDS)	Valid Master Conventional or Master Alternative Onsite Sewage System Installer License
Water/Well Pump (WWP)	Valid Master Water Well Systems Provider Certification

<sup>5</sup> See Va. Code § 54.1-1101 for definitions.

<sup>6</sup> See 18VAC50-22-20 and 18VAC50-22-30 for definitions of classifications and specialties.

<sup>7</sup> Minimum of five years’ experience for Class A applicants; three years for Class B; and two years for Class C.

## Prohibited Acts

Licensed contractors are subject to disciplinary sanctions by the Board if found in violation of regulations related to the subject matter of HJ 561, including:

- Failing to make sure that unlicensed helpers/laborers are properly supervised by licensed tradesmen;<sup>8</sup> or
- Hiring unlicensed or improperly licensed subcontractors.<sup>9</sup>

## Discussion

Over the course of two in-person meetings in June 2021, the Trade Exploration Work Group considered the study criteria and research findings, and participants offered their own expertise and perspectives as diverse representatives of the construction industry.

In order to assess the effectiveness of Virginia’s laws in “ensuring safer job sites and high-quality construction,” HJ 561 directed the Work Group to consider four questions:

1. Are all individuals who work in those crafts or trades that are relevant to safer job sites and high-quality construction required to be licensed?
2. Is more enforcement of occupational licensing laws needed to produce safer job sites and high-quality construction?
3. Should a broader scope of construction trades be licensed to produce safer job sites and high-quality construction?
4. What new policies or laws, if any, would enhance Virginia’s regulation of construction trades to produce safer job sites and high-quality construction?

The Work Group focused on determining whether the current individually licensed trades are sufficient, and whether existing eligibility criteria are adequate to ensure minimum competency without overregulating the workforce.

Seven individual licenses offer multi-level credentials (master and journeyman): electrical, plumbing, HVAC, gas-fitting, liquid petroleum gas-fitting, natural gas-fitting, and water well system provider.

Because the Board already requires additional licensure or certification as a prerequisite for certain classifications/specialties (see **Table 1**), the workgroup concentrated on the 32 specialty areas that require the QI to take a technical examination.

Upon completion of its review of the 32 specialties requiring a QI exam, the workgroup identified 12 that warranted further discussion as “relevant” trades to consider for a new individual credential:

1. **Carpenters**
2. **Masons**
3. **Painters**

---

<sup>8</sup> See 18VAC50-22-260.B.32

<sup>9</sup> See 18VAC50-22-260.B.29

4. **Drywall installers**
5. *Fire sprinkler installers*
6. *Roofers*
7. *Insulation installers*
8. *Framers*
9. *Concrete/cement workers*
10. *Flooring installers*
11. *Tilers*
12. **Glaziers**

Additional research showed that, of those dozen trades, more than half (the seven italicized) had substantial national certification programs in place recognized by DPOR as sufficient to demonstrate minimum competency.

One of the primary advantages of an industry-recognized national certification program is its ability to support license portability. Acceptance of the credential by other regulatory authorities as proof of competency decreases the regulatory burden on the applicant, allowing a tradesman or contractor to become licensed in each of the participating states without the added cost of an examination or the hassle of obtaining documentation of education or experience.

## Recommendations

The Trade Exploration Work Group recommends five actions to promote a well-trained workforce without overregulating construction trades. The following proposals enjoy broad, though not unanimous, support from members of the Work Group.

Representatives of commercial and residential contractors are unable to endorse additional regulation on principle, even if certification is initially established on a voluntary basis, given that the public appears adequately protected with the existing regulatory framework.

Labor advocates continue to push for more individual licensing requirements, increased enforcement, and attention to wage theft and misclassification.

### Establish new voluntary certifications for five construction trades

Create a pathway for carpenters, masons, drywall installers, painters, and glaziers to become individually certified by the Board for Contractors.

Eligibility criteria for the voluntary certification (not mandatory licensure) should be similar to the prerequisites in place for other trades (e.g., examination). Once certified, these individuals would be exempt from the QI examination for the finish carpentry (FIN), masonry (BRK), drywall (DRY), painting and wallcovering (PTC), or glass and glazing (GLZ) contracting specialties.

Voluntarily certified carpenters, masons, drywall installers, painters, and glaziers would be allowed to be listed on a contractor license as the Qualified Individual without needing to provide documentation of

education or experience. (Anyone not voluntarily certified would still be able to be a QI in the five trades after satisfying the education, experience, and examination requirements currently in place.)

- *Not a consensus recommendation.*
- *Implementation of this recommendation would require legislative action by the General Assembly.*

### Promote increased focus and funding for unlicensed activity prosecution

Practicing a trade or contracting without the required license is a crime, punishable as a Class 1 misdemeanor (§ 54.1-111). However, many local Commonwealth's Attorneys offices opt not to prosecute unlicensed activity cases, even before the stresses placed on the judicial system by COVID-19.

Due to staffing and other funding constraints, along with the need to prioritize felony cases or "serious" misdemeanors requiring attention, local prosecutors are rarely dedicating their limited time and resources to enforce the law against unlicensed practice.

Increased emphasis and funding for unlicensed practice prosecution might allow local Commonwealth's Attorneys to devote appropriate resources to stop this illegal activity, leveling the playing field for licensed contractors and protecting the public.

- *Implementation of this recommendation would require legislative action by the General Assembly.*

### Exempt apprentices from exam requirement for journeyman license

Apprenticeship graduates complete a four-year program that combines on-the-job training and related instructional education in the trade. Allowing graduates of an approved trade-related apprenticeship program (plumbing, electrical, HVAC, or gas-fitting) to obtain their journeyman-level license without sitting for the examination decreases regulatory burden while promoting a well-trained workforce.

The Board's Regulations already exempt certain Virginia Apprenticeship Council programs from the exam;<sup>10</sup> this recommendation would extend the exemption to all graduates of apprenticeships approved by DOLI or the U.S. Department of Labor, so individuals receive their journeyman licenses upon program completion.

This regulatory change will encourage individuals to enter into and complete apprenticeship programs, resulting in more qualified tradesmen and, by including those programs approved by the federal government, offering license portability.

- *The Board adopted this recommendation at its meeting on July 20, 2021, and initiated the regulatory review process, now at the NOIRA stage.<sup>11</sup>*

---

<sup>10</sup> See 18VAC50-30-50

<sup>11</sup> <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=5803>

## Accept more national certification programs as substantially equivalent

The Board is authorized to accept other programs, such as licenses issued by other states or national certifications from private trade associations, with substantially equivalent requirements to those in place in Virginia. In those instances, often referred to as reciprocity agreements or exam agreements, applicants from other jurisdictions are not required to sit for the Virginia exam and may also be excused from verification of other basic eligibility criteria.

These agreements are usually negotiated between the two issuing authorities; however, there is no requirement for mutual adoption. Accepting certifications from nationally recognized organizations reduces the regulatory burden on applicants and aligns with the Commonwealth's goals to remain the best place for businesses and workers.

- *The Board adopted this recommendation at its meeting on July 20, 2021. After reviewing a select number of programs, its Committee will report to the full Board by the end of the year.*

## Recognize contractor businesses for hiring more licensed tradesmen

The Work Group determined that current licensing requirements for the construction trades are adequate and additional mandates are not warranted. However, as noted in the resolution, not all tradesmen on a jobsite must be individually licensed. Minimum compliance with law and regulation allows bona fide employees of the contractor business (which has a Qualified Individual for every specialty) to perform work under the authority of the license, without individual credentials.

To encourage businesses to exceed basic compliance and hire more skilled workers on construction projects, the Work Group recommends exploring a formal acknowledgement program modeled after the DOLI Voluntary Protection Program (VPP) STAR award. The free public recognition would acknowledge contractors on the DPOR website that choose to hire a certain percentage of individually licensed or certified employees, providing an incentive for contractors to hire a greater number of individually credentialed employees.

- *Implementation of this recommendation would benefit from legislative action by the General Assembly (similar to § 40.1-49.13), to ensure recognition of certain licensees is not perceived as arbitrary or otherwise runs afoul of the APA.*

# Appendices

HOUSE JOINT RESOLUTION 561

SPEAKER'S REFERRAL LETTER

21101952D

HOUSE JOINT RESOLUTION NO. 561

Offered January 13, 2021

Prefiled January 12, 2021

Establishing a joint subcommittee to study the efficacy of the Commonwealth's occupational licensing laws for construction trades. Report.

Patrons—Guzman, Hope, Kory, Krizek, Plum, Samirah, Simon and Simonds

Referred to Committee on Rules

WHEREAS, occupational licensing for traditionally licensed construction trades is widely required in jurisdictions across the United States; and

WHEREAS, a well-trained and licensed construction workforce is the key to ensuring safer job sites and high-quality construction; and

WHEREAS, the Commonwealth's current occupational licensing laws do not require that all workers on a job for certain trades, such as electrical; plumbing; and heating, ventilation, and air conditioning, carry active licenses; and

WHEREAS, understanding the degree of enforcement of occupational licensing laws currently in the Code of Virginia is an important factor in determining the effectiveness of the Commonwealth's occupational licensing programs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the efficacy of the Commonwealth's occupational licensing laws for construction trades. The joint subcommittee shall have a total membership of 17 members that shall consist of 12 legislative members, four nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: seven members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; five members of the Senate to be appointed by the Senate Committee on Rules; two nonlegislative citizen members, one of which is a member of a contractors association and one of which is a member of a labor union, to be appointed by the Speaker of the House of Delegates; and two nonlegislative citizen members, one of which is a member of a contractors association and one of which is a member of a labor union, to be appointed by the Senate Committee on Rules. The Director of the Department of Professional and Occupational Regulation or his designee shall serve ex officio with voting privileges. Nonlegislative citizen members of the joint subcommittee shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the joint subcommittee and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall study the efficacy of the Commonwealth's occupational licensing laws for construction trades to (i) determine whether more requirements are necessary to ensure all workers in relevant crafts are licensed, (ii) determine whether greater occupational licensing enforcement is necessary, (iii) determine whether the Commonwealth's occupational licensing laws should apply to a broader scope of construction trades, and (iv) make recommendations for new laws or policies that would enhance the Commonwealth's occupational licensing regulations.

Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. Technical assistance shall be provided by the Department of Professional and Occupational Regulation. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2021 interim, and the direct costs of this study shall not exceed \$27,360 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the House members or a majority of the Senate members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the

INTRODUCED

HJ561



59 joint subcommittee.

60 The joint subcommittee shall complete its meetings by November 30, 2021, and the chairman shall  
61 submit to the Division of Legislative Automated Systems an executive summary of its findings and  
62 recommendations no later than the first day of the 2022 Regular Session of the General Assembly. The  
63 executive summary shall state whether the joint subcommittee intends to submit to the General  
64 Assembly and the Governor a report of its findings and recommendations for publication as a House or  
65 Senate document. The executive summary and the report shall be submitted as provided in the  
66 procedures of the Division of Legislative Automated Systems for the processing of legislative documents  
67 and reports and shall be posted on the General Assembly's website.

68 Implementation of this resolution is subject to subsequent approval and certification by the Joint  
69 Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or  
70 delay the period for the conduct of the study, or authorize additional meetings during the 2021 interim.



COMMONWEALTH OF VIRGINIA

**HOUSE OF DELEGATES**  
RICHMOND

**EILEEN FILLER-CORN**  
**SPEAKER**

SPEAKER'S ROOM  
STATE CAPITOL  
POST OFFICE BOX 406  
RICHMOND, VIRGINIA 23218  
FORTY-FIRST DISTRICT

COMMITTEE ASSIGNMENTS:  
RULES, CHAIR

April 28, 2021

Ms. Mary Broz-Vaughan  
Department of Professional and Occupational Regulation  
Perimeter Center  
9960 Mayland Dr. Suite 400  
Richmond, VA 23233

Dear Director Broz-Vaughan:

During the 2021 General Assembly Session, the House Committee on Rules heard and considered HJ 561, introduced by Delegate Guzman, which would have established a joint subcommittee to study certain matters related to the work of the Department of Professional and Occupational Regulation. In lieu of formal passage of this bill, it was agreed that this letter would be sent to the Department of Professional and Occupational Regulation requesting that you investigate this matter to ensure that this concern is adequately addressed. Please identify what, if any, changes can be made to address this matter most appropriately.

Should you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Thank you for your thoughtful consideration.

Sincerely,

A handwritten signature in blue ink that reads "Eileen Filler-Corn".

Eileen Filler-Corn

EFC/lrw

## DPOR Staff Acknowledgements

Eric L. Olson, Board Executive Director

Marjorie King, Board Administrator

Mary Charity, Licensing Supervisor

Stephanie Keuther, Administrative Assistant



(804) 367-8500 | [www.dpor.virginia.gov](http://www.dpor.virginia.gov)