



INSTITUTE FOR JUSTICE
MINNESOTA

Written Testimony in Support of **House Bill 2289** submitted to the House
Federal and State Affairs Committee on behalf of the Institute for Justice

March 19, 2019

Mr. Chairman and Members of the House Federal and State Affairs Committee:

Thank you for the opportunity to submit written testimony in support of HB 2289. My name is Meagan Forbes, and I am an attorney at the Institute for Justice.

The Institute for Justice is a national, nonprofit, public interest law firm. We are the national leader in litigating and lobbying to open labor markets by reducing regulatory barriers to earning a living.

We support HB 2289 for three reasons.

First, HB 2289 ends an outdated regulation that is creating an unnecessary barrier to starting a transportation business in Kansas.

Certificates of public convenience and necessity are among the most pernicious forms of economic regulation. Ordinarily, businesses rise and fall on their own merits. But certificates of public convenience and necessity turn the ordinary rules of business on their head by allowing market incumbents and government officials to control entry into an occupation or field.

Under state law, newcomers must either get their competitors' permission or prove in an adversarial hearing that they will not impair existing business. State law requires this process, but the Kansas Corporation Commission has indicated that the process has not been utilized in the last twenty years.

Every Kansan is due clear laws. This is especially important when starting a business. HB 2289 cleans up the law and ensures that current law will not deter people from starting a transportation business in Kansas. It makes clear that consumers and entrepreneurs—not existing businesses and the government—have the right to decide whether a business is necessary and whether it will succeed.

Second, HB 2289 is good policy. The benefits of competition in the context of transportation are well-recognized. We have already seen the benefits of competition in Kansas's approach to regulating transportation network companies like Uber and Lyft.

We have also seen these benefits in other states that have repealed outdated public convenience and necessity laws and allow transportation entrepreneurs to operate pursuant to a simple registration and permitting process. Indeed, Kansas's neighboring states of Missouri (responding to litigation) and Oklahoma do not have public convenience and necessity laws for common and contract carriers. Nebraska is also considering legislation this year that would repeal similar requirements.

Finally, this bill is a step in the right direction toward addressing a larger problem in Kansas: excessive occupational licensing. Kansas licenses several occupations that are not licensed elsewhere.¹ Laws like these have real costs to workers and the economy. In fact, a recent Institute for Justice study found that Kansas has lost an estimated 29,409 jobs due to occupational licensing and that licensing has cost Kansas's economy as much as \$3 billion.²

In conclusion, certificates of public convenience and necessity are incompatible with America's promise of equal opportunity. HB 2289 ensures that Kansas's entrepreneurs have the same right that so many other businesses already enjoy: the right to compete and succeed through hard work and good service.

Thank you for the opportunity to testify today. I am happy to answer any questions members of the committee may have.

¹ For example, Kansas is one of only four states that licenses psychiatric technicians. Dick M. Carpenter, *et al.*, *License to Work: A National Study of Burdens from Occupational Licensing*, Institute for Justice (2d ed. Nov. 2017), at 76, http://ij.org/wp-content/themes/ijorg/images/lw2/License_to_Work_2nd_Edition.pdf.

² Morris Kleiner, *et al.*, *At What Cost: State and National Estimates of the Economic Costs of Occupational Licensing*, Institute for Justice (Nov. 2018), at 32, <http://tinyurl.com/ijatwhatcost>.