

Anti-Regulation & ARPL

The Fight Continues

*Executive Directors, Board Staff, Legal Counsel
and State CPA Society CEOs
Virtual Conference*

March 31, 2020

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Half Told Truths!



“Fifty years ago, one in 20 Americans needed a license to work – Today, that number is closer to one in three”

Institute for Justice

Licensing requirements vary substantially by state, creating barriers to workers moving across State lines and inefficiencies for businesses —

Institute for Justice

47 State Boards
of Accountancy
have been in
existence – prior
to 1950!

37 State Boards of
Accountancy have
been in existence for
more than 100 years –
Beginning with the
New York Board in
1896!

State Boards of Accountancy Beginnings

NASBA

Alabama	1919	Montana	1947
Alaska	1960	Nebraska	1957
Arizona	1919	Nevada	1913
Arkansas	1915	New Hampshire	1921
California	1901	New Jersey	1904
Colorado	1907	New Mexico	1947
Commonwealth of the Northern Mariana Islands	2003	New York	1896
Connecticut	1907	North Carolina	1925
Delaware	1913	North Dakota	1913
Florida	1905	Ohio	1908
Georgia	1908	Oklahoma	1917
Guam	2003	Oregon	1913
Hawaii	1923	Pennsylvania	1947
Idaho	1917	Puerto Rico	1945
Illinois	1903	Rhode Island	1906
Indiana	1915	South Carolina	1915
Iowa	1927	South Dakota	1917
Kansas	1915	Tennessee	1940
Kentucky	1916	Texas	1915
Louisiana	1908	Utah	1959
Maine	1967	Vermont	1912
Maryland	1900	Virgin Islands	1957
Massachusetts	1909	Virginia	1910
Michigan	1905	Washington	1903
Minnesota	1909	Washington, DC	1981
Mississippi	1920	West Virginia	1959
Missouri	1909	Wisconsin	1913
		Wyoming	1911

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“Market competition encourages innovation and job growth – not Occupational Licensing.”

Lee McGrath – Institute for Justice

“What drives consumer protection is competition, reputation and legal remedies, not regulatory oversight.”

Lee McGrath – Institute for Justice



The American Legislative Exchange Council is America's largest nonpartisan, voluntary membership organization of state legislators dedicated to the principles of *limited government, free markets and federalism*



To *limit the size and scope of government* power and to ensure that all Americans have the right to control their own destinies as free and responsible members of society



The Cato Institute is a public policy research organization – a think tank – dedicated to the principles of individual liberty, *limited government, free markets* and peace



Americans for Prosperity exists to recruit, educate, and mobilize citizens in support of the *policies and goals of a free society at the local, state, and federal level*, helping every American live their dream – especially the least fortunate



The Mercatus Center mission is to generate knowledge and understanding of the institutions that affect the *freedom to prosper*, and to find sustainable solutions that overcome the barriers preventing individuals from living free.



The Goldwater Institute is a national leader for constitutionally *limited government* respected by the left and right for its adherence to principle and real-world impact



THE BUCKEYE INSTITUTE



NASBA

CLEARING THE HURDLES TO ATTAIN A LICENSE

To practice in a field that requires a license, applicants must complete some combination of the following:

A minimum number of years of education and/or experience

Pay initial licensing fees, which can exceed \$500

Pass one or more exams that confirm applicant quality

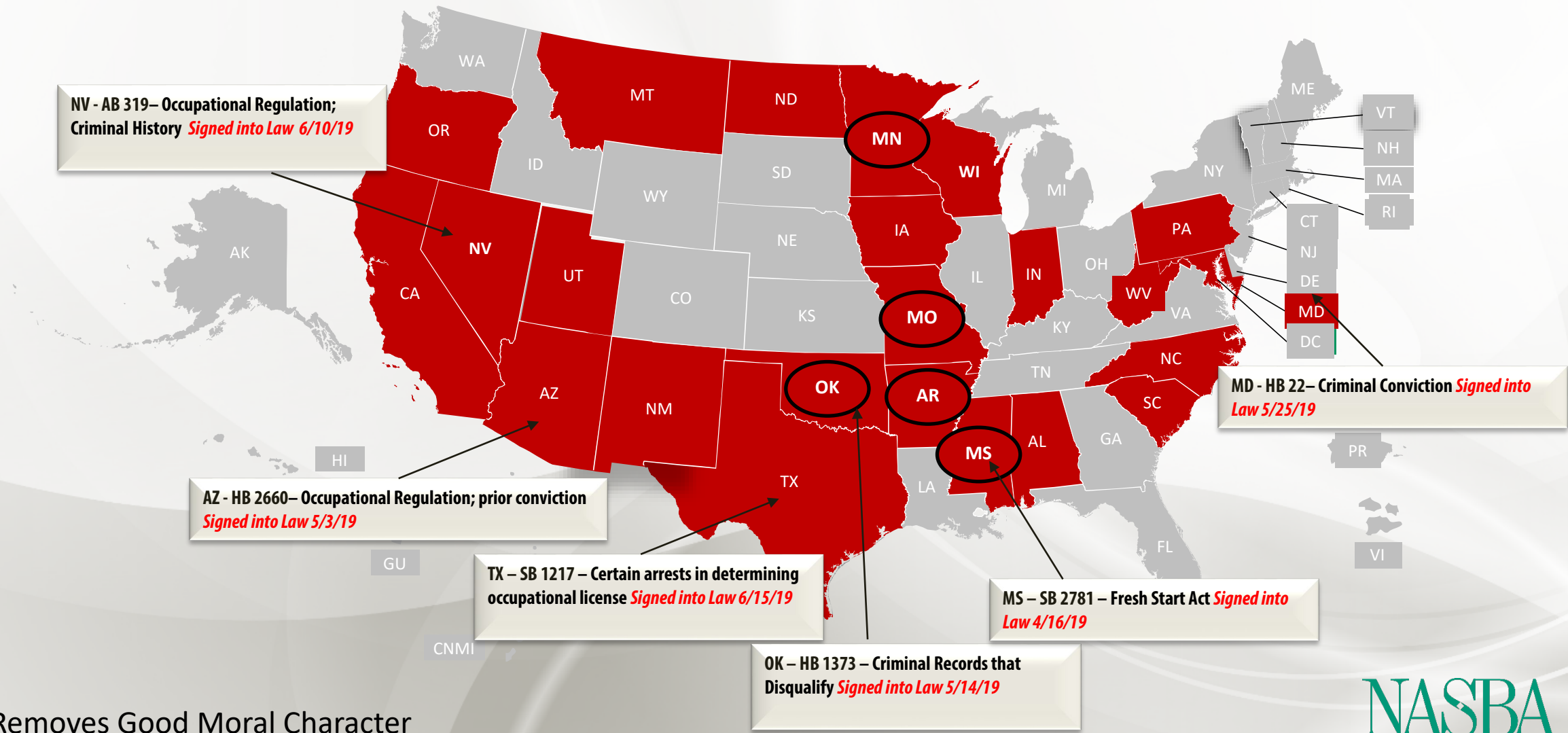
Be of good moral character and in good legal standing

Engage in continuing education and pay renewal fees to maintain license

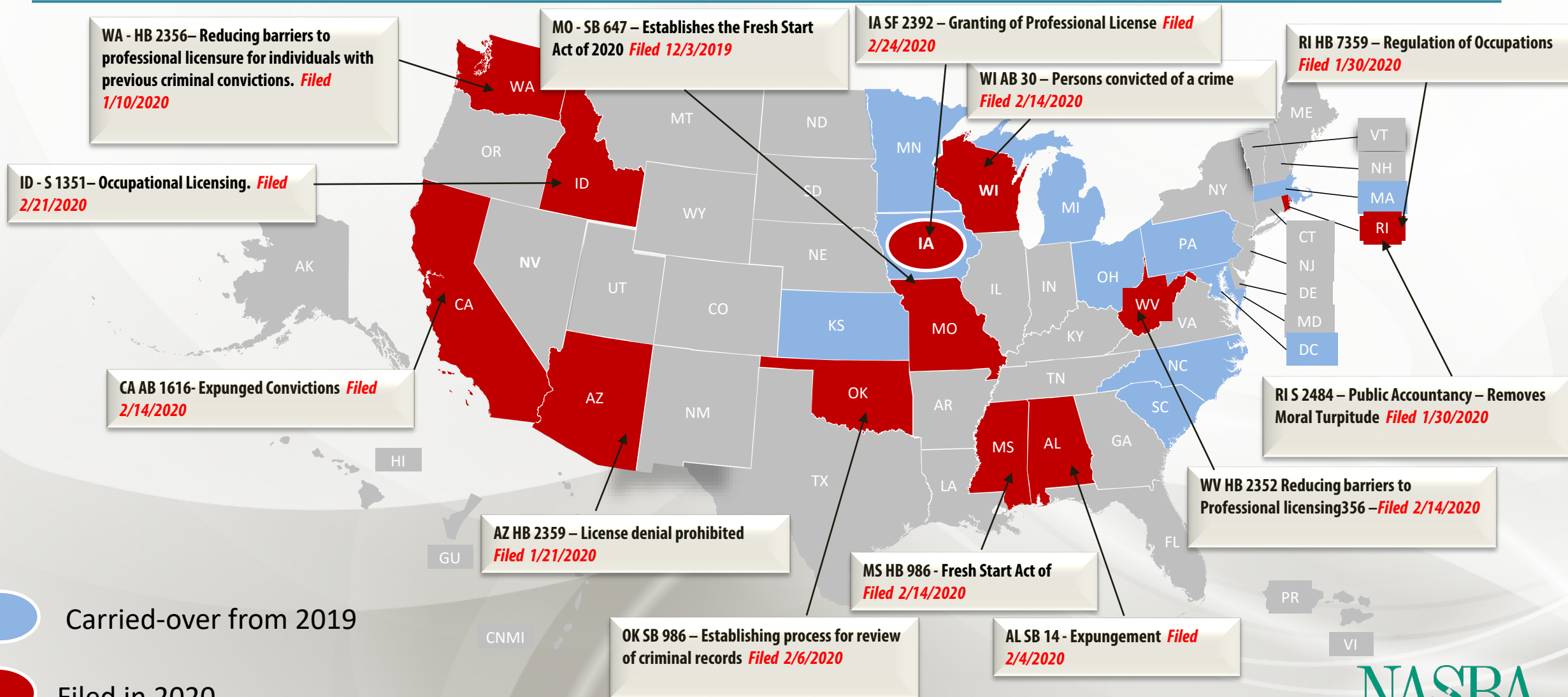




2019 Criminal Conviction Legislation



2020 Criminal Conviction Legislation



Licensing Scheme Reform – Primary Tools

Licensure Elimination

- Complete De-Regulation
- Replacing Occupational Licensure with a less stringent form of oversight

Manage Existing Schemes

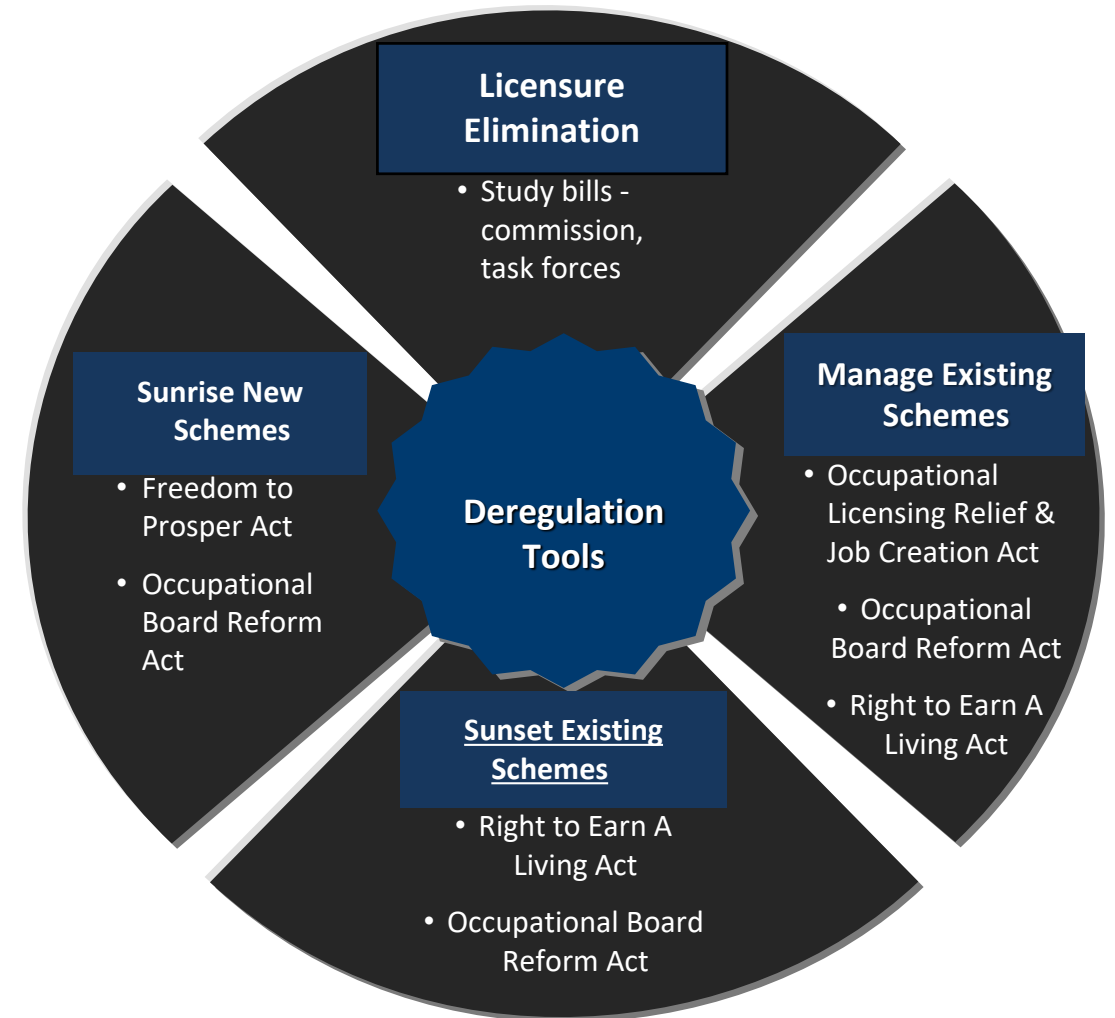
- Eliminate Barriers to Entry
- Least Restrict Means of Regulation

Sunset Review Process

- Complete De-Regulation
- Least Restrict Means of Regulation

Sunrise

- Prevent new occupations from being regulated
- Prevent existing occupations from expanding their regulatory oversight



HIERARCHY OF OCCUPATIONAL REGULATION OPTIONS

PRIVATE
GOVERNANCE
OPTIONS

Market competition

Third-party or consumer-created ratings and reviews

Private certification

Specific private civil cause of action or
alternative dispute resolution to remedy consumer harm

PUBLIC
REGULATION

Deceptive trade practice act

Regulation of the process of providing the
specific goods or services to consumers

Public inspection

Mandatory bonding or insurance

COMMAND
AND
CONTROL

Registration

Government certification

Specialty occupational
license for medical
reimbursement

Occupational
license

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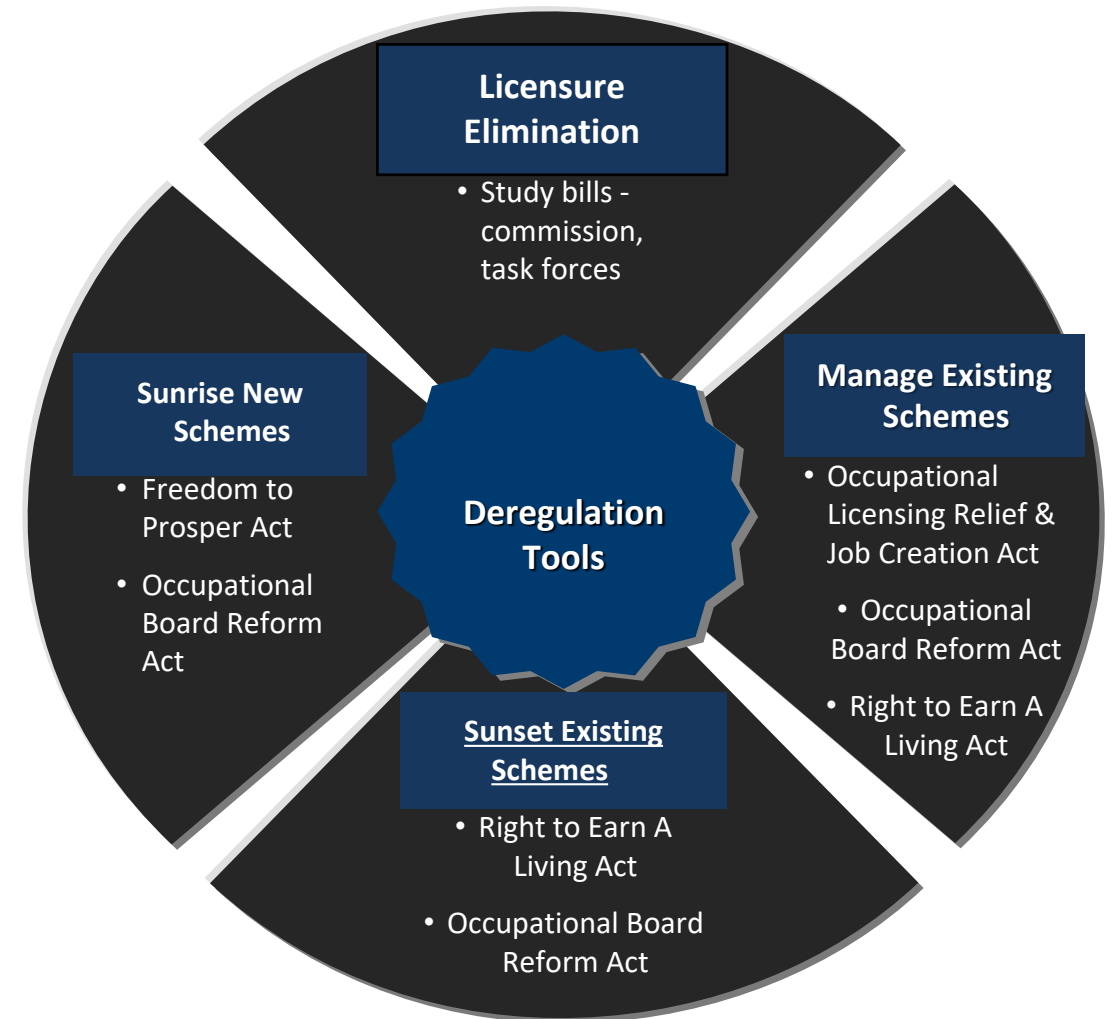
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The Occupational Licensing Relief and Job Creation Act

Search in Model Policies:

Search Model Policies...

Keyword Tags

2013 Annual Meeting
2013 SNPS
2014 Annual Meeting
2014 SNPS
2014 STFS
ACCE
Accountability
Accounting
Admissibility
ADR
Agriculture
Air Quality
Alternative Energy Standard
Alternative Fuels
Animal
Appeal Bond
Article V
Asbestos
Bad Faith
Balanced Budget Amendment
Biotechnology
Broadband
Budget
Canada
Carbon Emissions

The Occupational Licensing Relief and Job Creation Act

Summary

Occupational licensing increases unemployment by about 1%, raises prices by about 15%, and offers no incremental consumer protection over a competitive market. This Act ensures that an individual may pursue lawful occupation free from unnecessary occupational regulations, and protects against the use of occupational regulations to reduce competition and increase prices to consumers. When enacting future occupational regulations, this Act requires state legislatures to find real harm, and select the least-restrictive regulation to address that harm. The Act also protects entrepreneurs by shifting the burden to the government to show in court and administrative hearings that it is enforcing occupational laws for health-and-safety reasons, and not solely as a barrier to entry.

Model Policy

(Title, enacting clause, etc.)

Section 1. (Purpose)

This Act's purpose is to:

- (A) Ensure that an individual may pursue a lawful occupation free from unnecessary occupational regulations, and
- (B) Protect against the misuse of occupational regulations to reduce competition and increase prices to consumers.

Section 2. (Definitions) The following definitions apply in this Act:

- (A) "Business license" means a permit, registration, certification, franchise or other approval required by law for a sole proprietorship, partnership or corporate entity to do business.
- (B) "Certification" is a voluntary program in which the government grants nontransferable recognition to an individual who meets personal qualifications established by a legislative body. Upon approval, the individual may use "certified" as a designated title or as part of a designated title. A non-certified individual may also perform the lawful occupation for compensation but may not use the title "certified." "Certification" is not intended to be synonymous with an "occupational license" in this Act or to prohibit the use of private certification.

NASBA

ALEC

American
Legislative
Exchange
Council

LIMITED GOVERNMENT • FREE MARKETS • FEDERALISM

GOLDWATER
INSTITUTE
Where freedom wins.

INSTITUTE
for JUSTICE



MERCATUS CENTER
George Mason University

CATO
INSTITUTE

AMERICANS FOR
PROSPERITY

Licensing Scheme Reform – Primary Tools

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Manage Existing Schemes

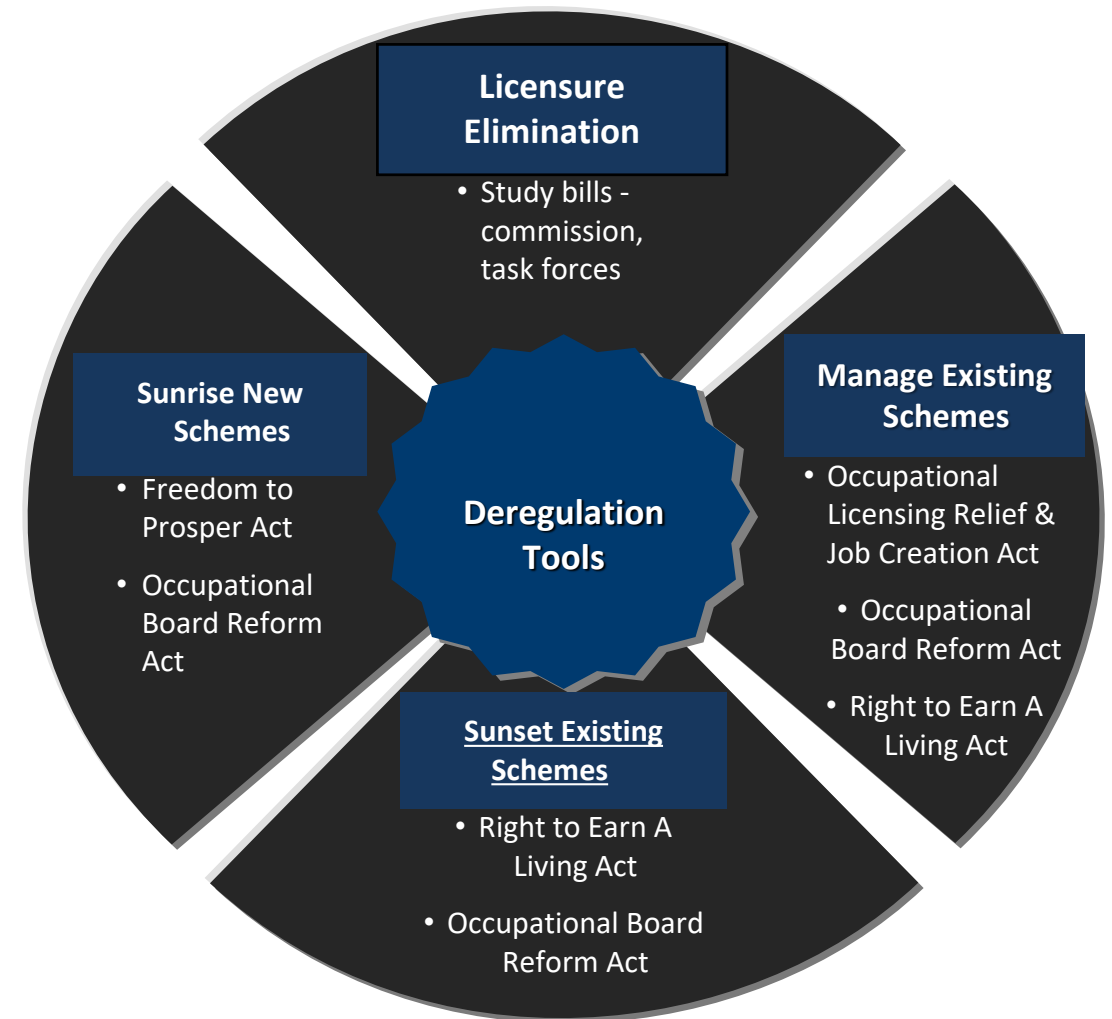
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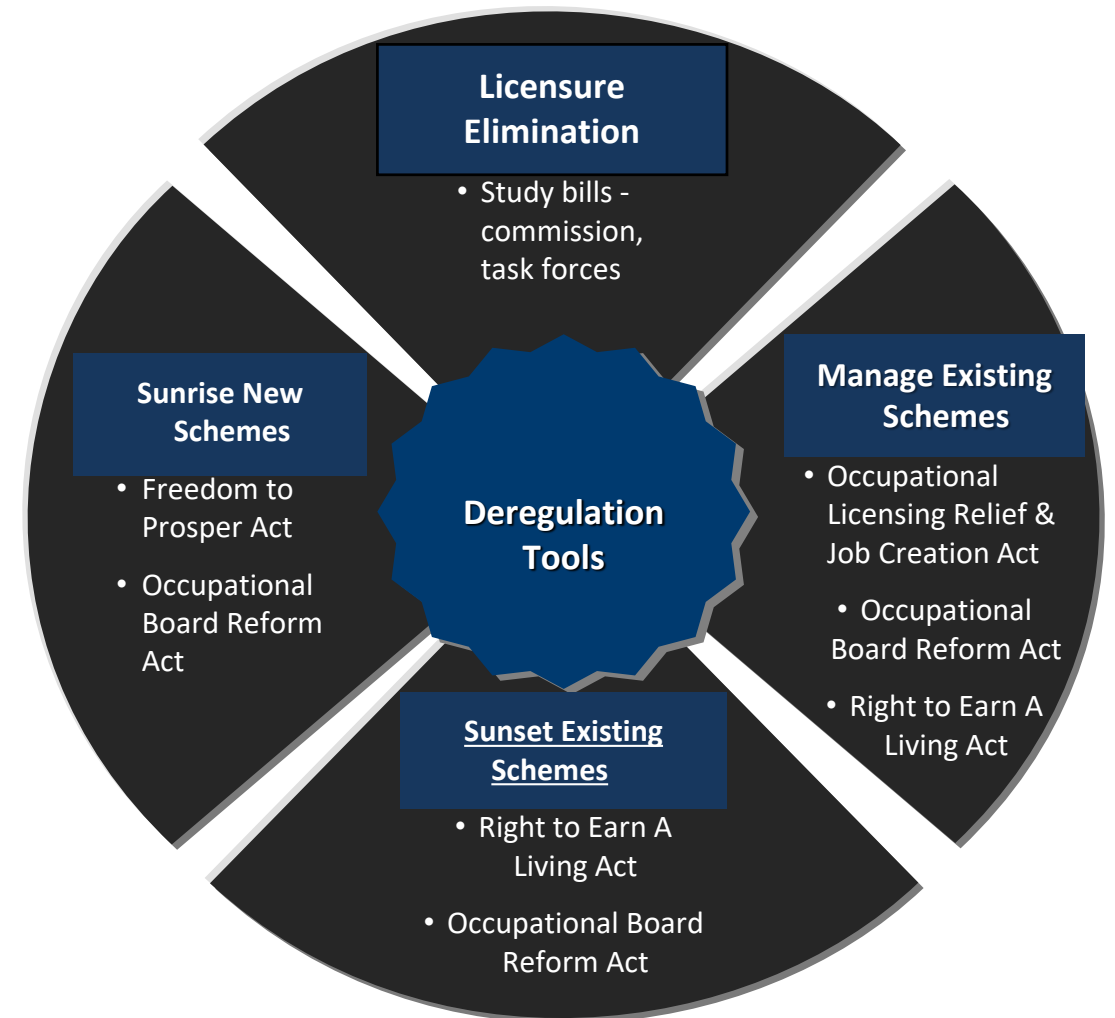
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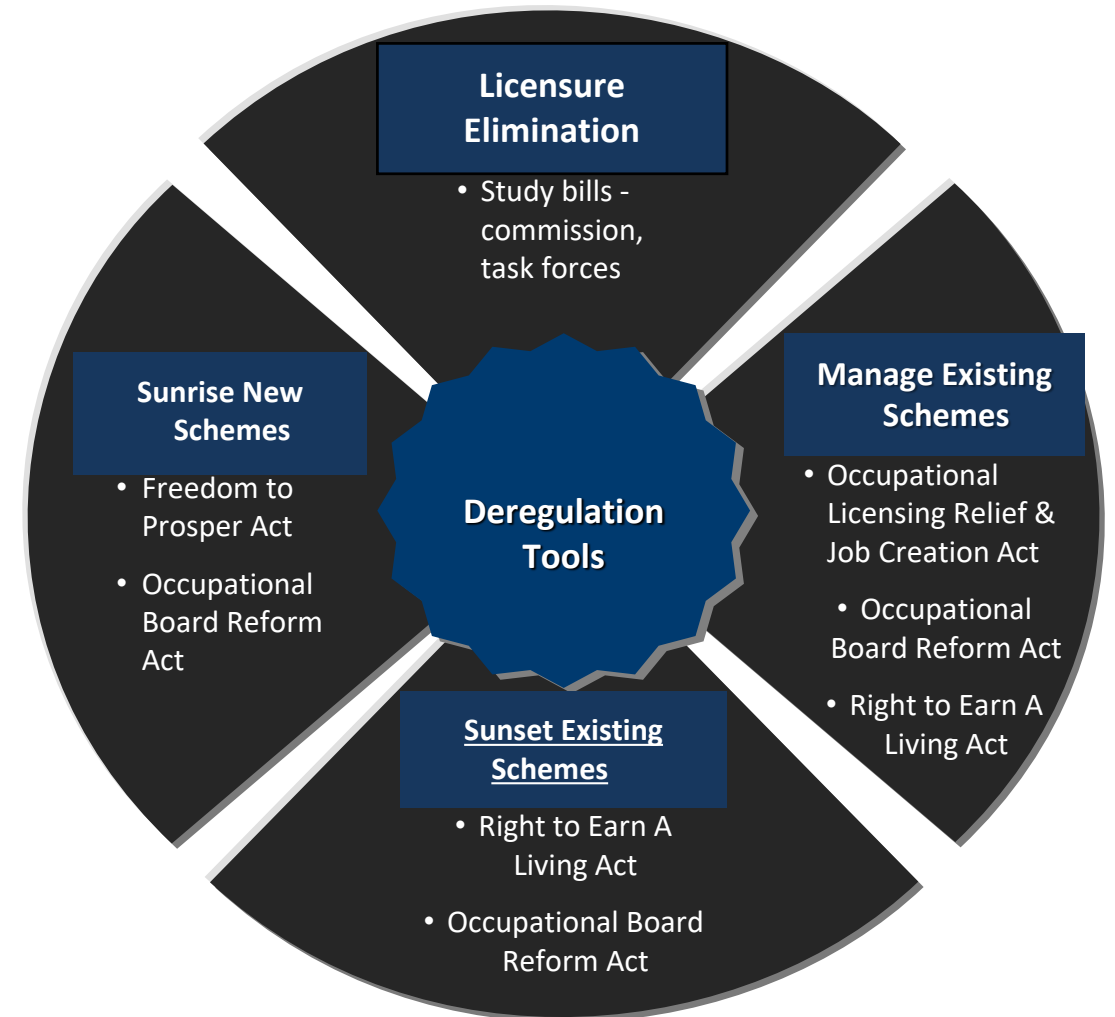
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Policy Status

Type: Model Policy

Status: Final

Date Introduced: August 10, 2018

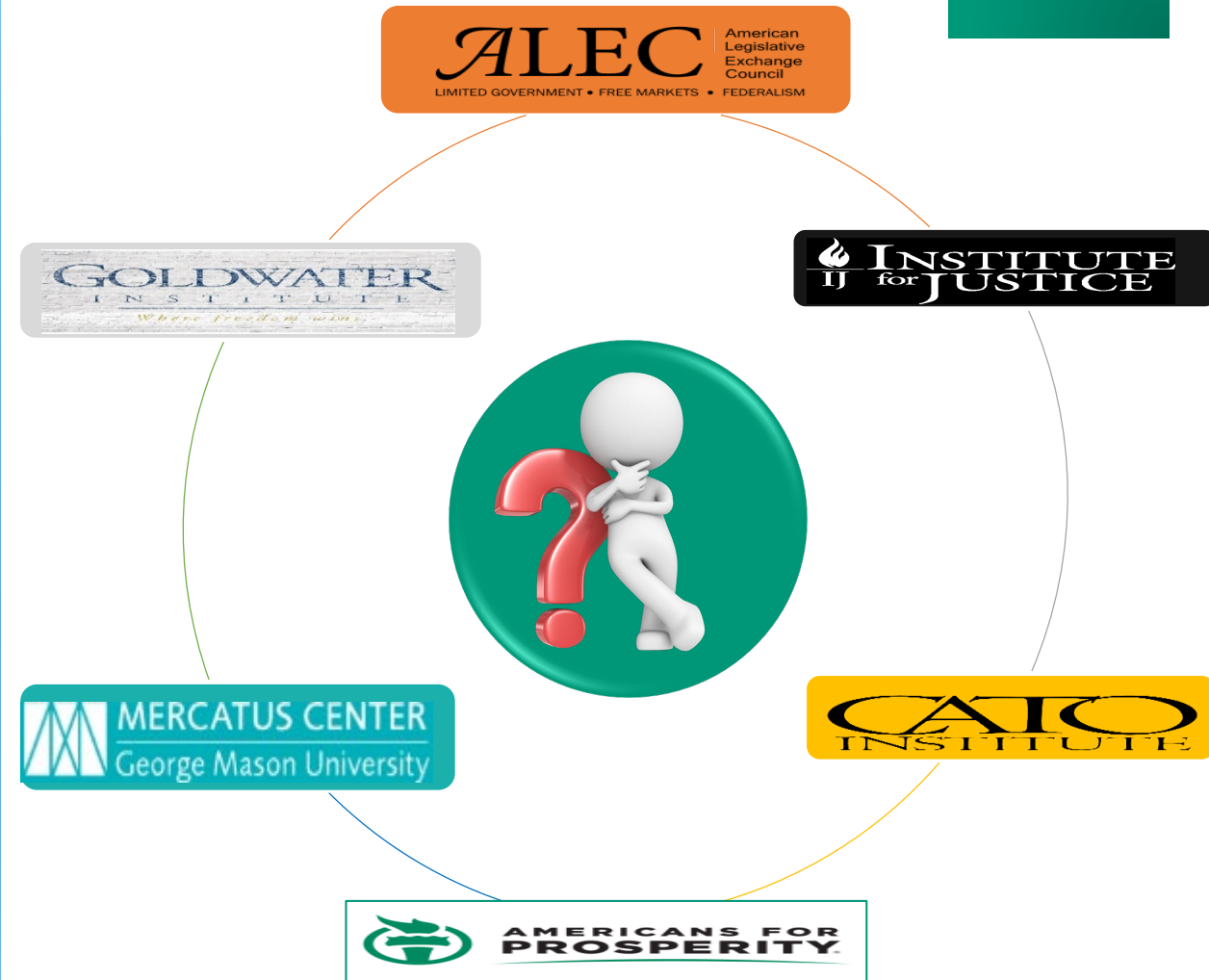
Date Finalized: September 7, 2018

The Occupational Licensing Consumer Choice Act

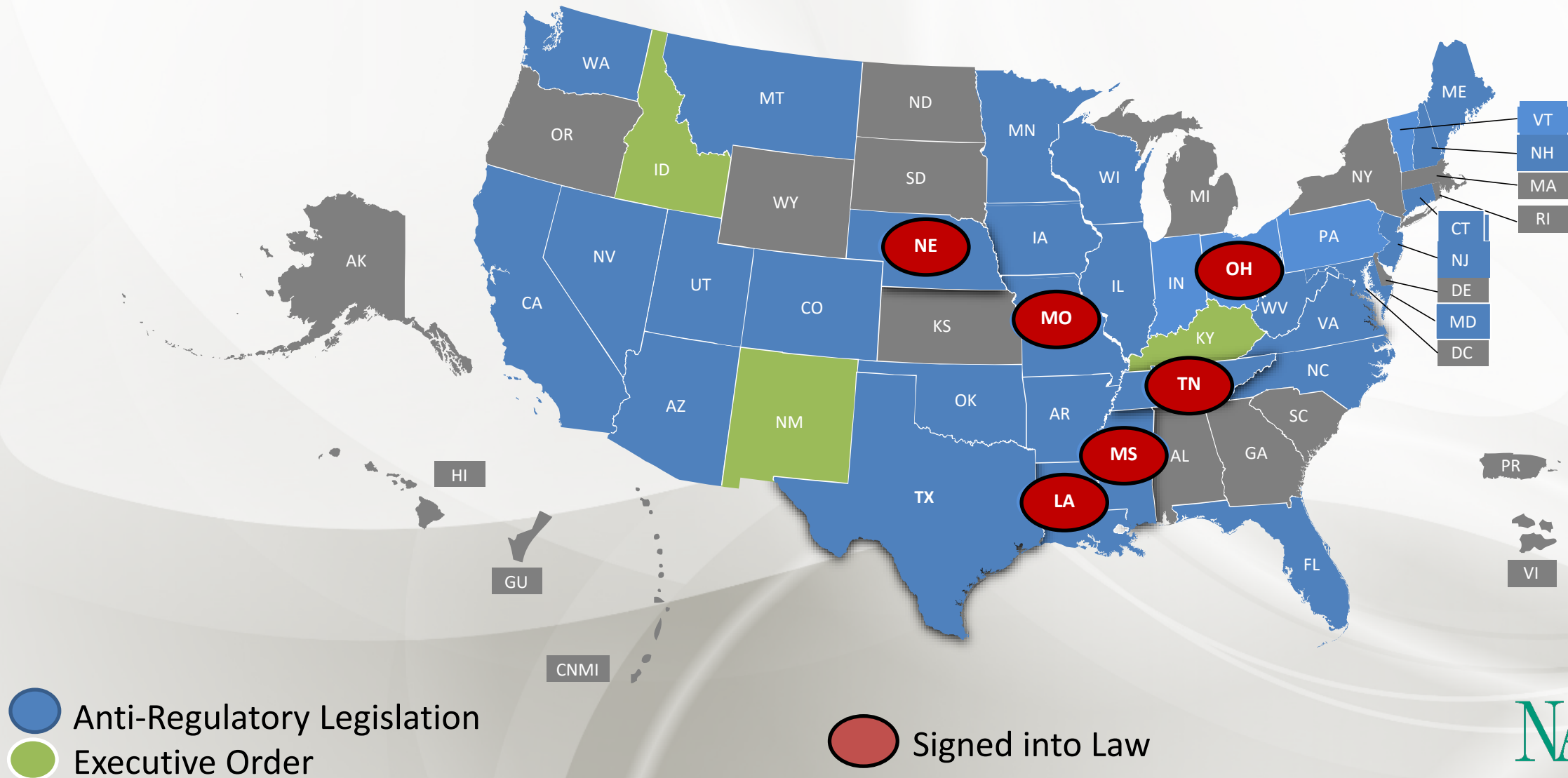
The Occupational Licensing Consumer Choice Act ("the Act") is model legislation that provides consumers with the right to choose a worker who best serves their needs irrespective of whether that person holds an occupational license from the state of [STATE]. It provides that business owners, entrepreneurs, and workers in professions otherwise licensed by the state of [STATE] may operate without an occupational license if they disclose that fact to prospective consumers. Workers and entrepreneurs subject to regulatory enforcement may assert such disclosure as a defense to action related to enforcement of occupational licensing laws and regulations.

Section 1. Purpose


The Purpose of the Act is to:



2017-18 Anti-Regulatory Activity




2019 Anti-Regulatory Legislation



National Association of State Boards of Accountancy

Mission Driven - Member Focused



YOUR HELP IS NEEDED!

Contact the House Government Organization Committee to stop HB 2697

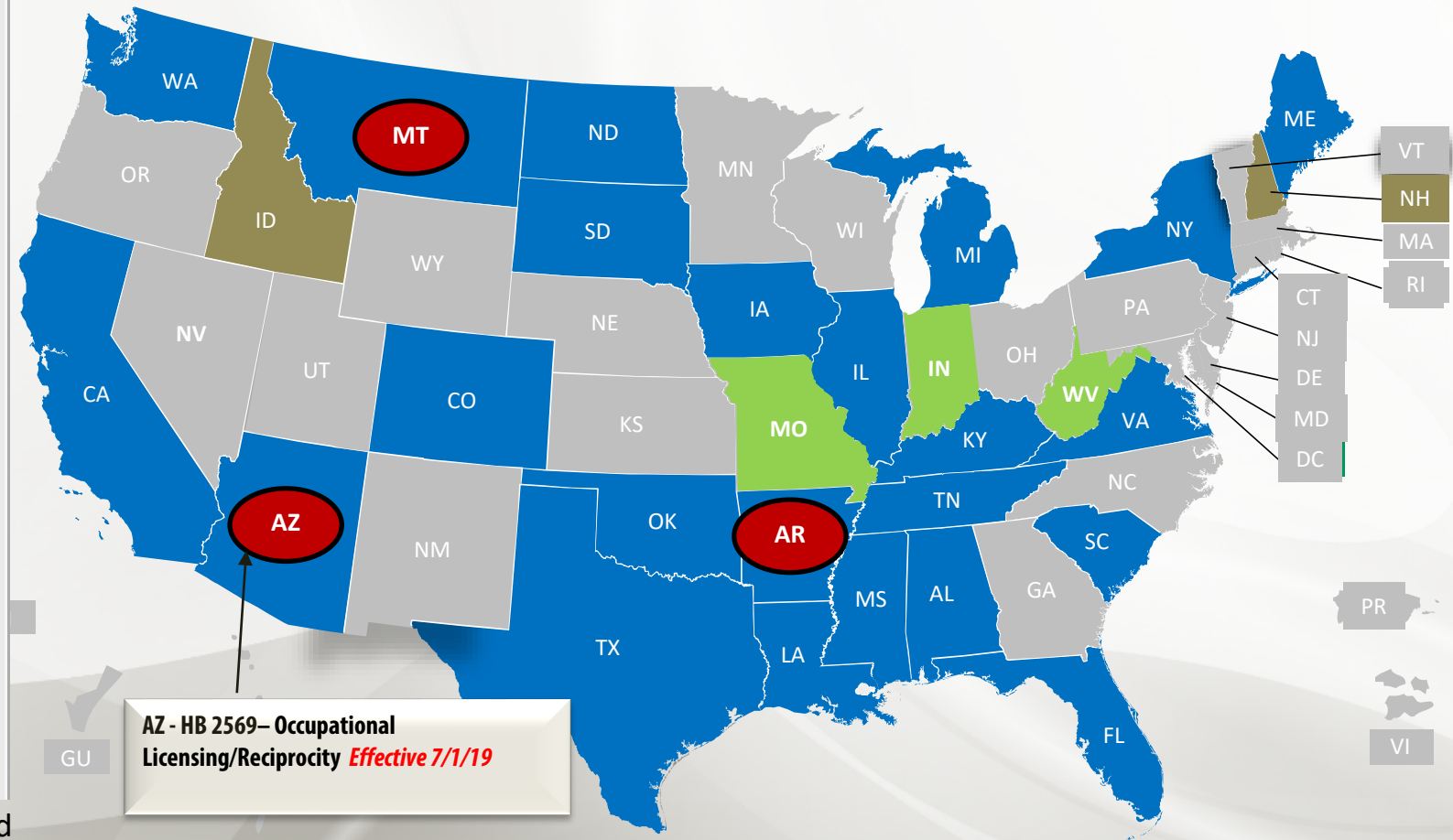
BEFORE IT BECOMES LAW

To All West Virginia Certified Public Accountants:

Your help is needed to educate members of the House Government Organization Committee about the negative ramifications of HB 2697 — The Occupational Licensing Consumer Choice Act — before it becomes law.

(Earlier today, HB 2697 was introduced in the West Virginia House. This bill would allow any non-licensed individual to enter into a "non-licensed disclosure" agreement with a potential client, allowing a non-CPA to work in a lawful occupation without an occupational license. The bill, as currently written, exempts medical doctors, RNs, LPNs, dentists, and pharmacists, **BUT NOT CPAs!**

[VIEW THE BILL](#)



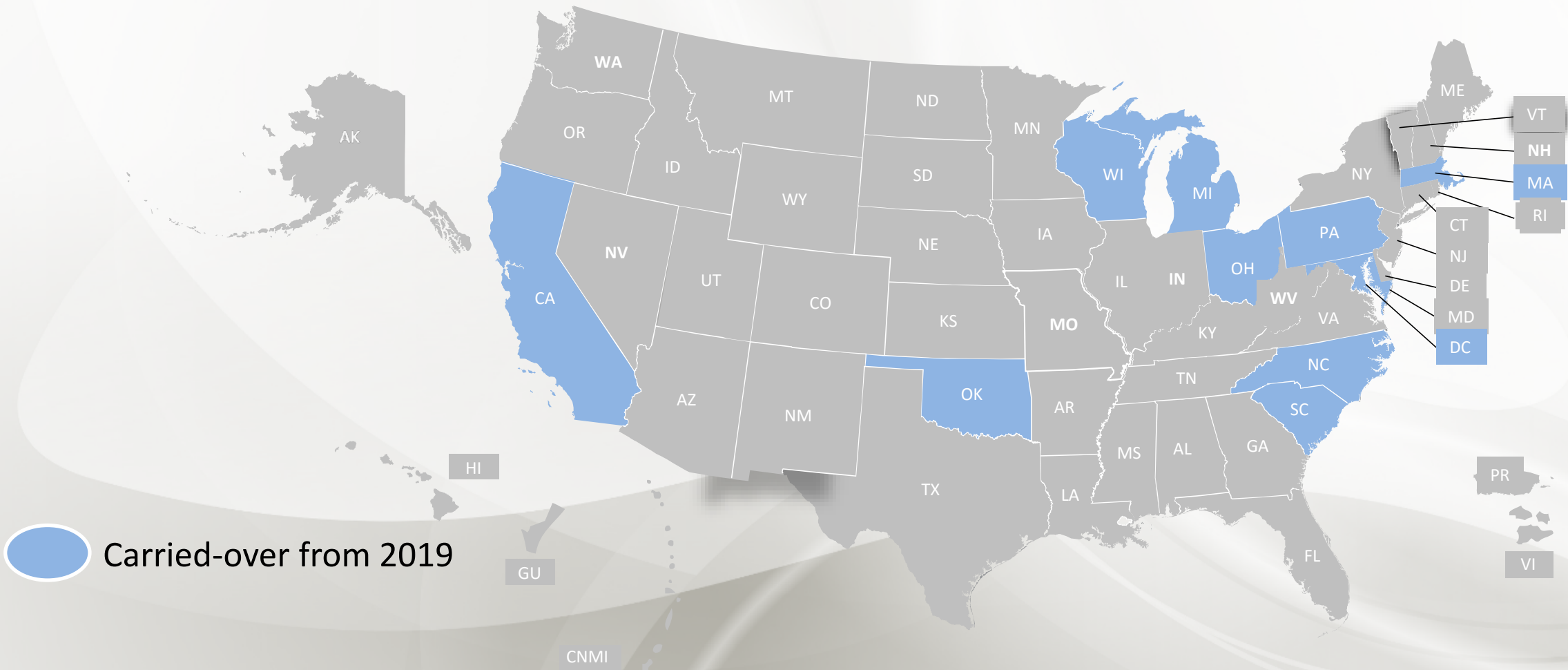
● Non-Licensed Disclosure Legislation Filed

● Study Legislation

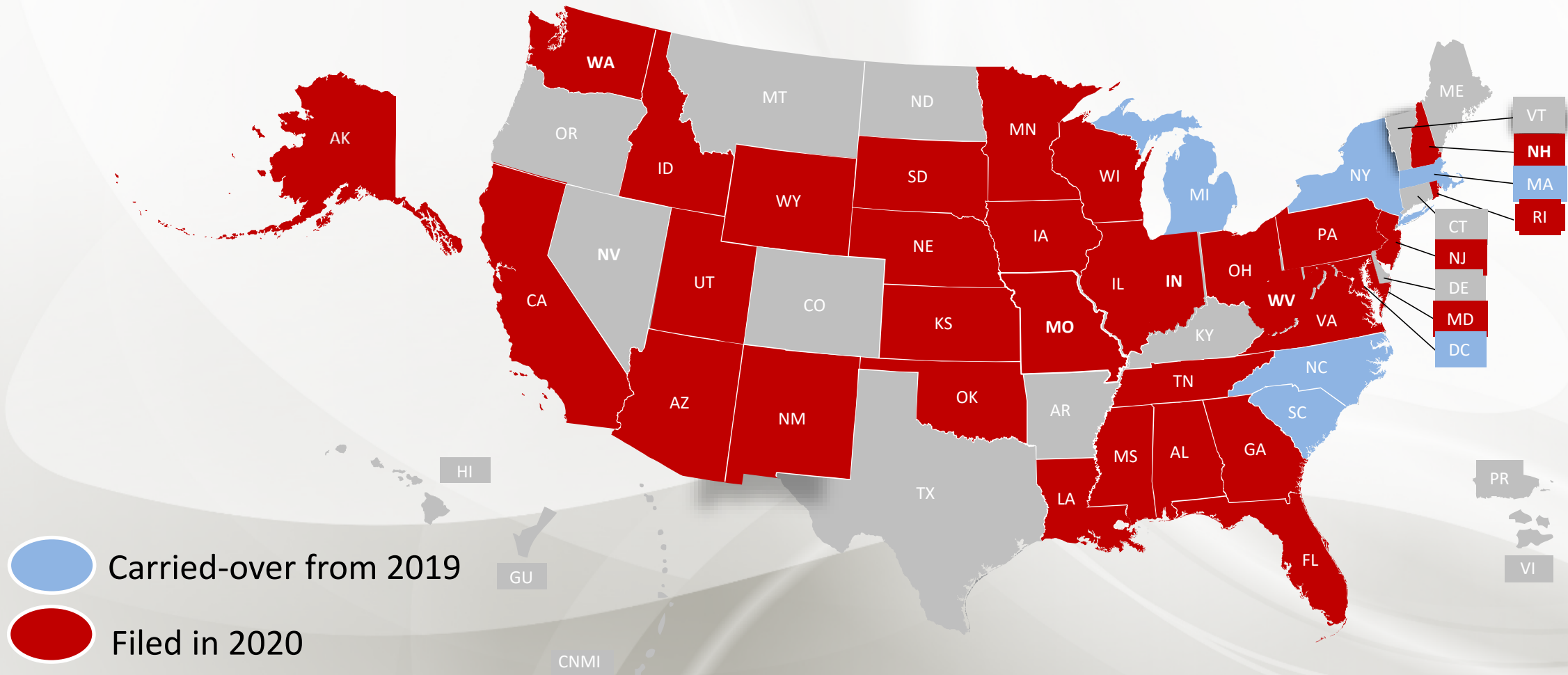
● Anti-Regulatory Legislation – check IL

● Signed into Law

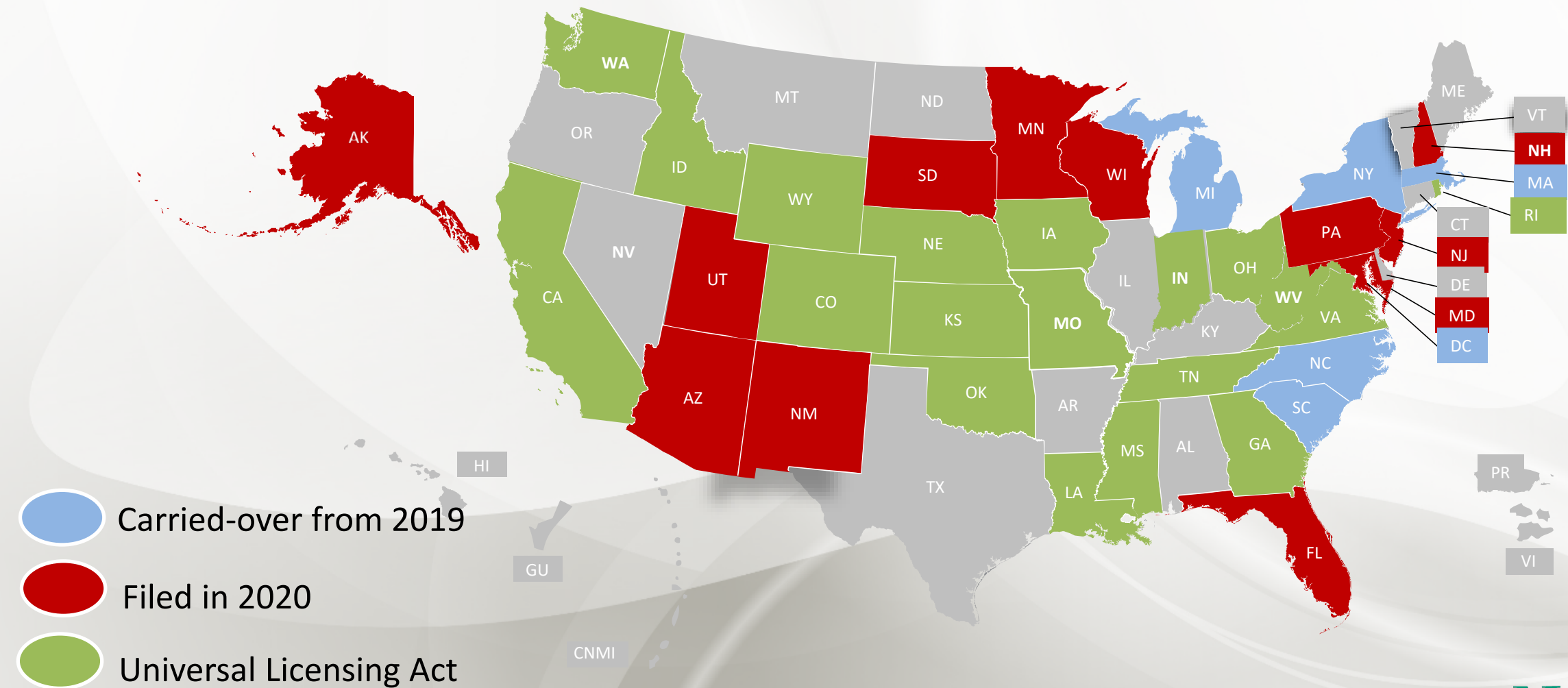
2020 Anti-Regulatory Legislation



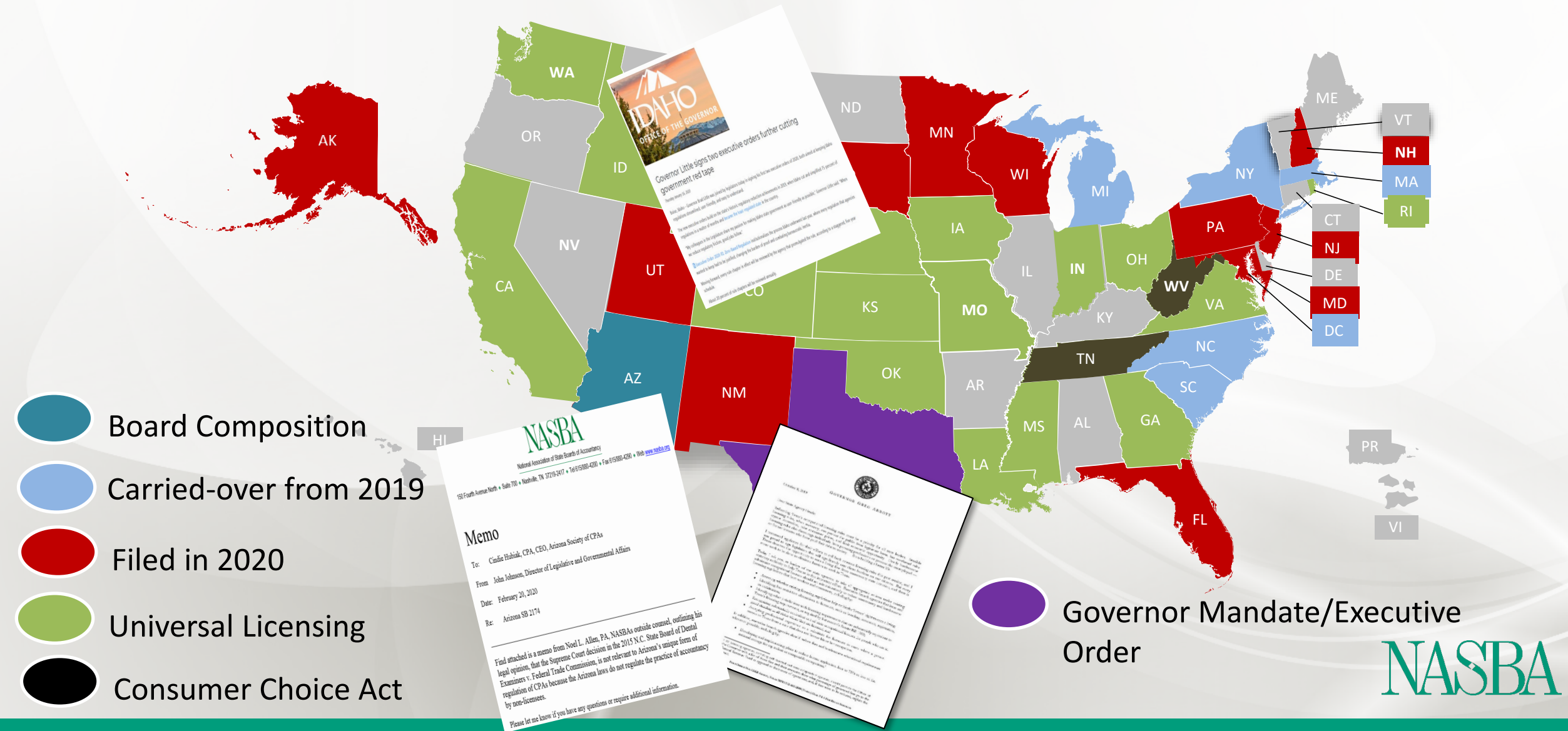
2020 Anti-Regulatory Legislation

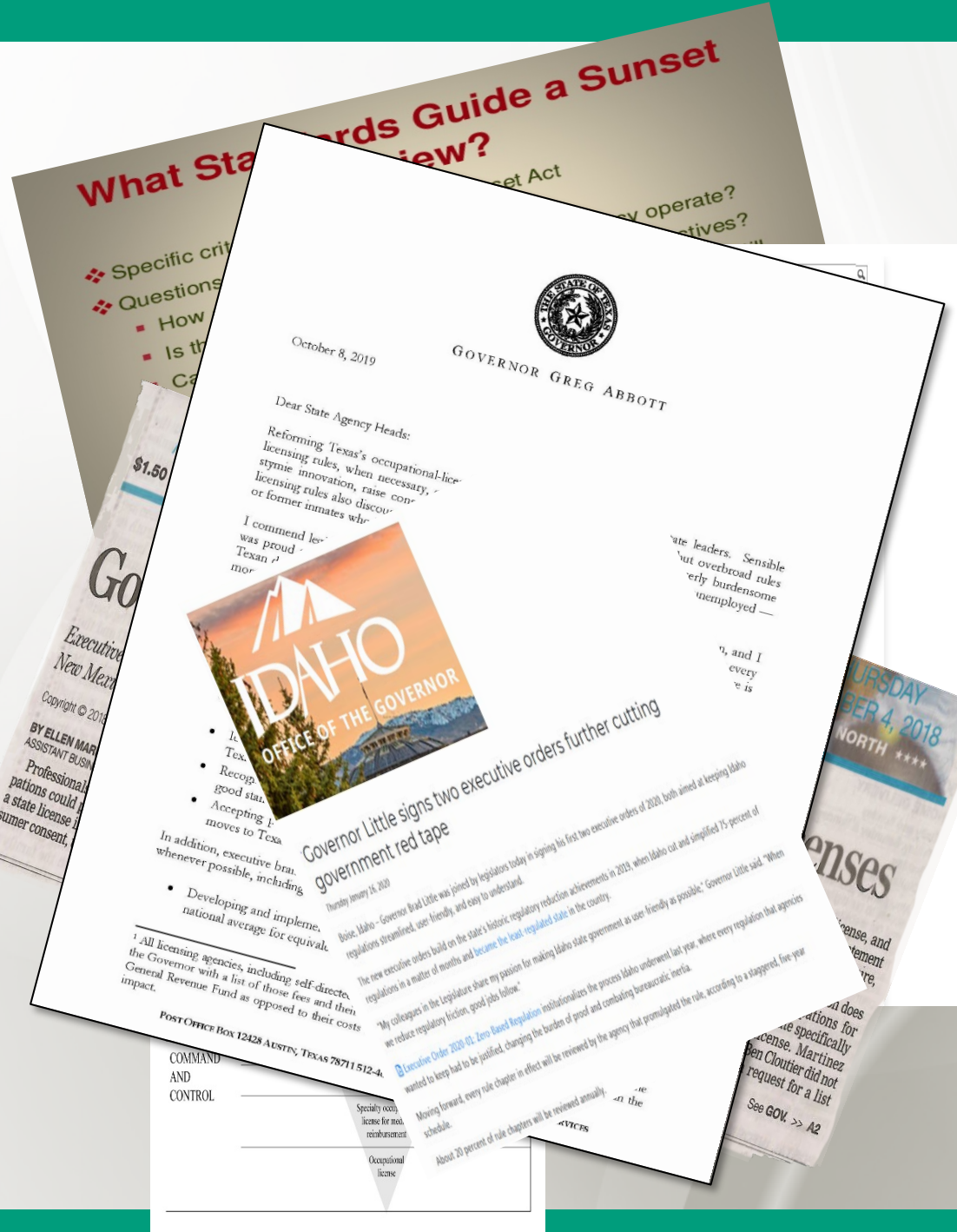


2020 Anti-Regulatory Legislation



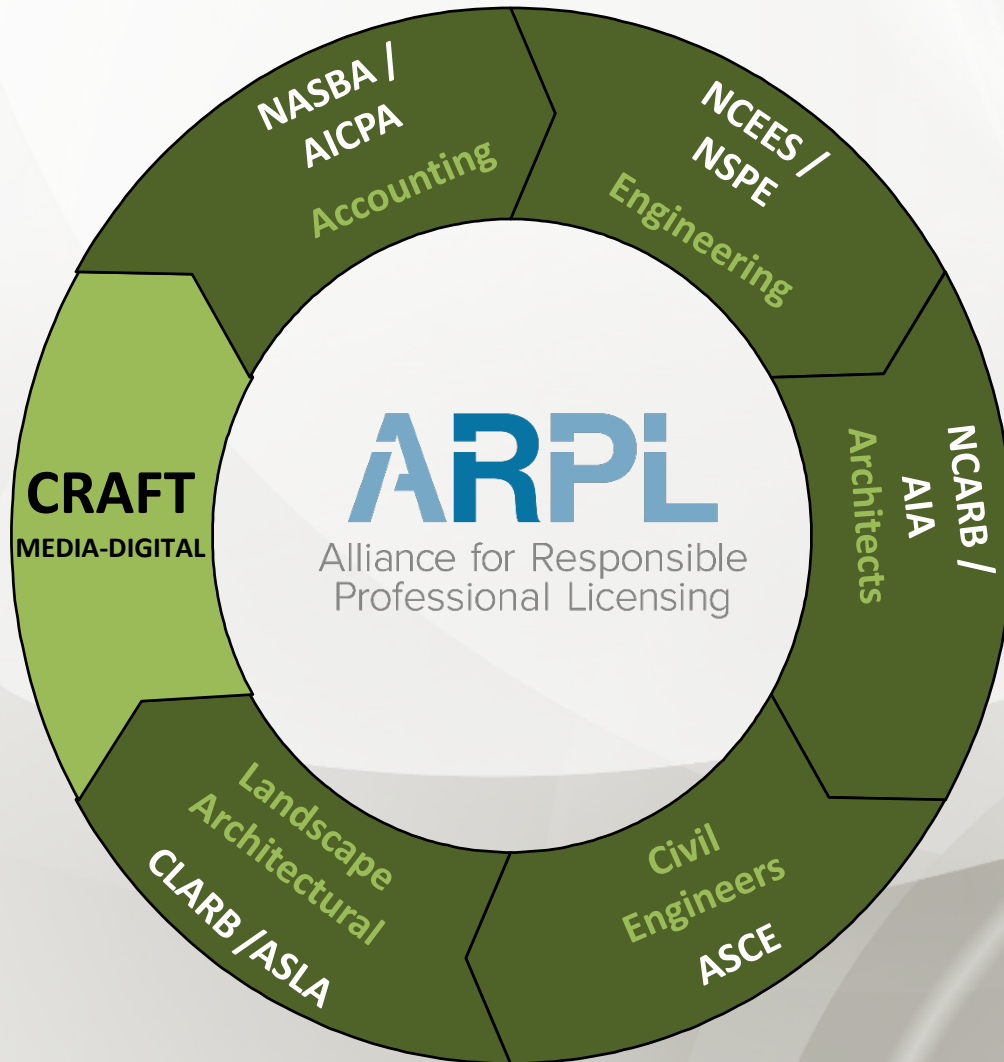
2020 Anti-Regulatory Legislation





NASBA

Alliance for Responsible Professional Licensing





ARRPL

Alliance for Responsible
Professional Licensing

WHY A NATIONAL ALLIANCE

- Create a unified voice and presence
- Drive a proactive, consistent message
- Condition the environment to support state efforts
- **Ultimately – change the narrative**

WHAT ARPL IS DOING

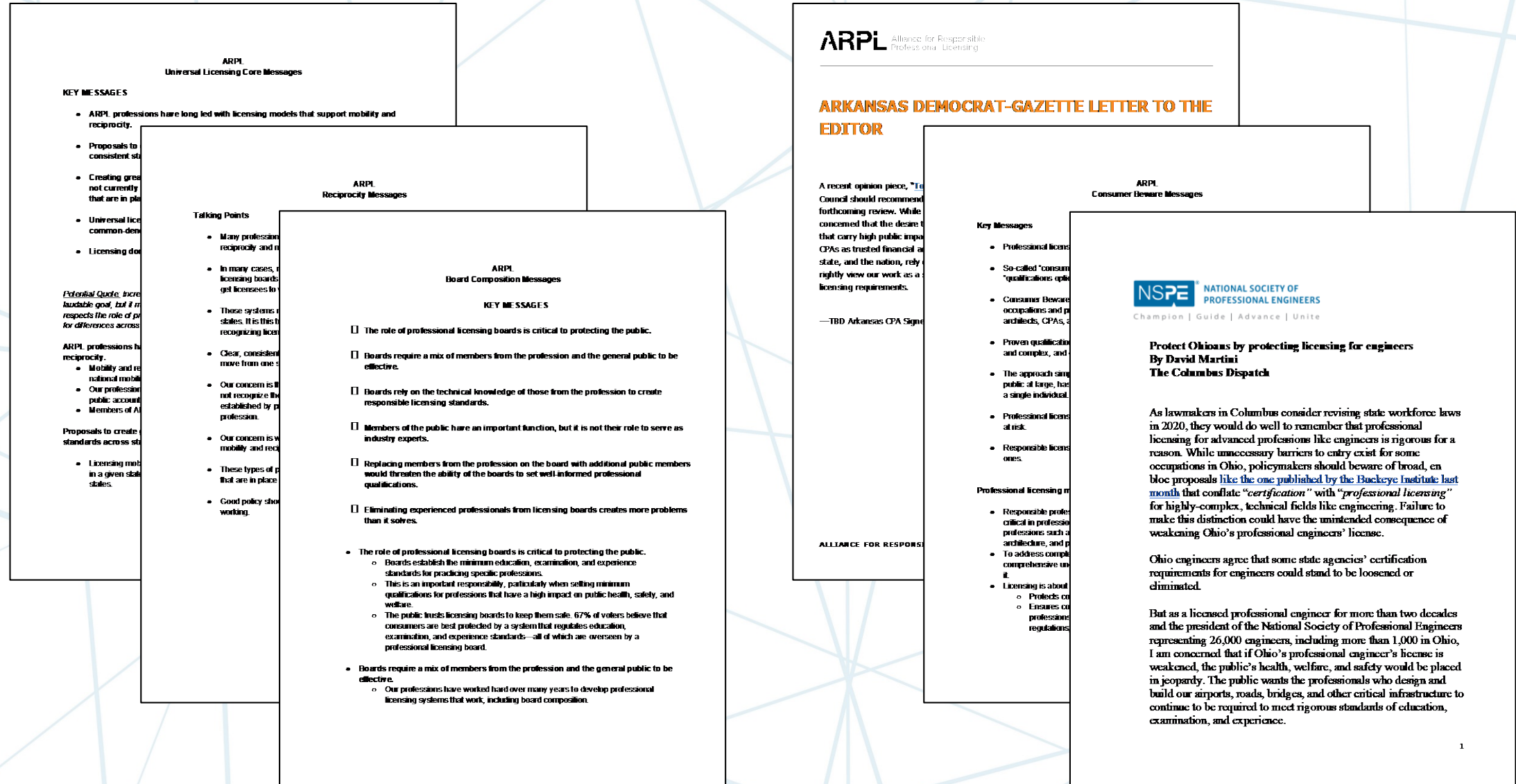
ARPL is a central communications campaign, bringing messaging, tools, and issue expertise to carry the ARPL message nationally and support states

ARPL will:

- Develop new research to further explore public concerns and rebut arguments to deregulate
- Conduct earned media efforts to insert ARPL voice in the story
- Launch targeted digital advertising to surround legislators and educate them on the issue
- Create content to capture the impact of ARPL professions on public health, safety, and welfare
- Provide messages and tools to help state partners

KEY MESSAGING AND COMMUNICATIONS TOOLS

Professional licensing matters. It is rigorous for a reason.



UNDERSTANDING WHERE WE STAND

- National survey of registered and likely voters as well as opinion elites, conducted to ascertain the state of public opinion on professional licensing and potential reform.
- What does the public think about professional licensing in general?
- What is the level of public support or concern for proposed de-licensing?
- What arguments and messages work for ARPL?
- What are the challenges and opportunities?

THE GOOD NEWS



75% of voters believe that ensuring qualifications for certain professions is important.



71% of voters believe that licensing of certain occupations should be required unless it can be proven that eliminating licensing will not have a negative impact on public health and safety.



67% of voters believe that consumers are best protected by a system that regulates education, examination, and experience standards—all of which are overseen by a professional licensing board.



56% of the public believe it is "extremely important" that licensing boards ensure professionals in certain industries meet minimum qualifications to perform their work.

THE DANGER

Legislation With Strongest Support

■ Support

Legislation that would allow state legislatures to determine if the licensure process in place is necessary or not



Legislation that would require regulators to first demonstrate that licensure is necessary for the health and safety of the public in order for them to require professionals to obtain licensure to work in the field. This would mean the industry would have to prove to the state that regulation is needed



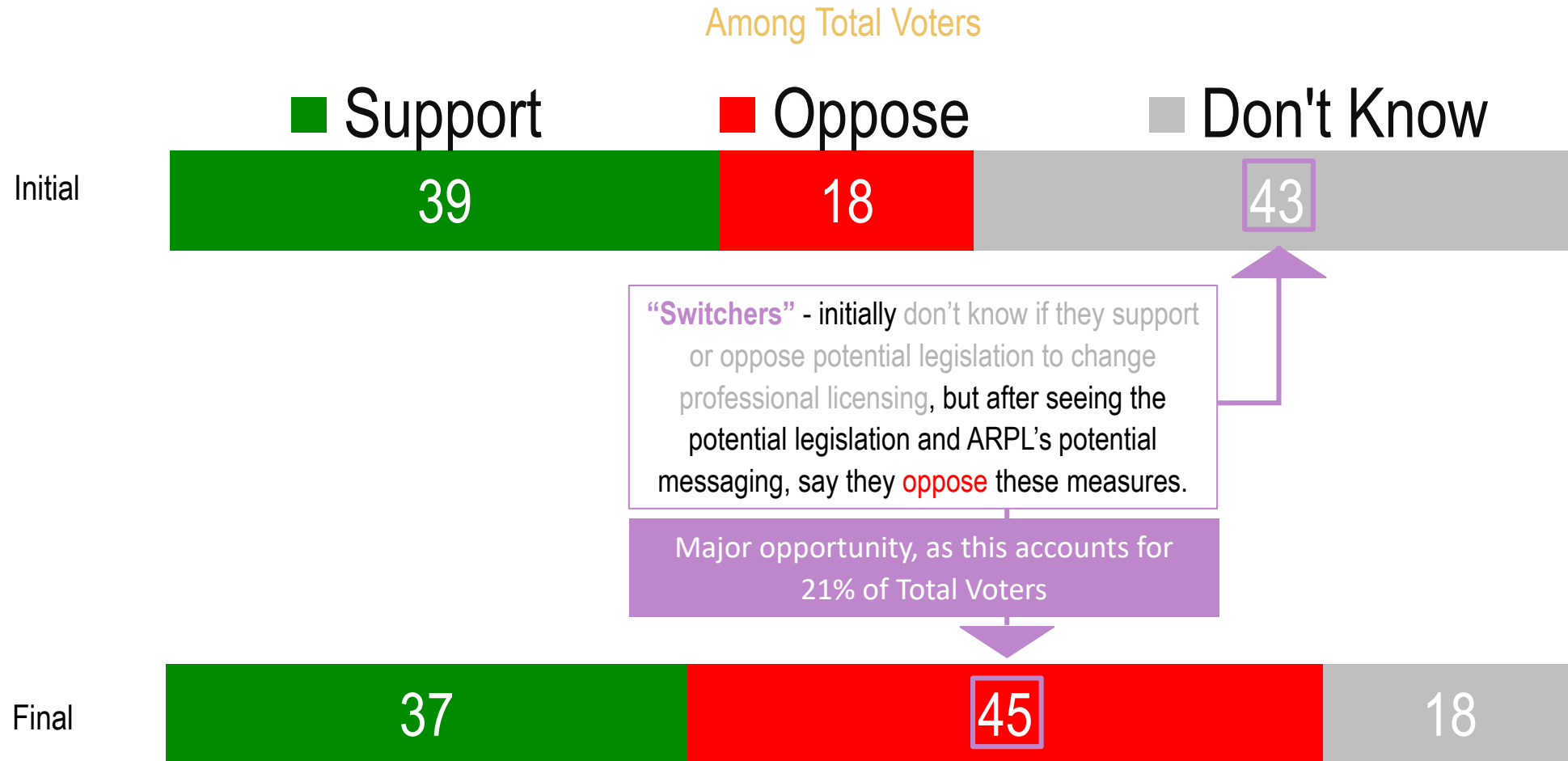
Legislation that would establish temporary occupational and professional licenses through agreements between states which often supersede existing licensing laws, rules and procedures facilitated by regulatory boards. This would allow professionals to operate across state lines, even if they are technically not 'licensed' in a state, given the state's rules for licensing



Legislation establishing that if regulation of an industry is determined to be necessary, the regulation must be the least restrictive approach possible, with licensing being the most restrictive and last approach to adopt



THE OPPORTUNITY



KEY SURVEY TAKEAWAYS

- Voters recognize the importance and benefits of regulation, and the need for professional licensing and oversight
- But voters are largely uninformed when it comes to the nuances of regulation and licensure requirements, and governing boards who oversee these measures; SOME voters believe the market can regulate itself
- As a result, they are open to discussions around modifications
- Right now, neither “side” has emphatic support; many voters have yet to form an opinion—We need to engage with them now and ensure the opposition doesn’t control the narrative
- Growing awareness of independent regulatory boards is just one piece of the puzzle – Communications need to demonstrate the benefits of what we do – and why – in order to build credibility and resonate with Voters

WE CAN WIN...IF WE GET OUR MESSAGE OUT



Complexity of what we do requires rigor



Unintended consequences if deregulated



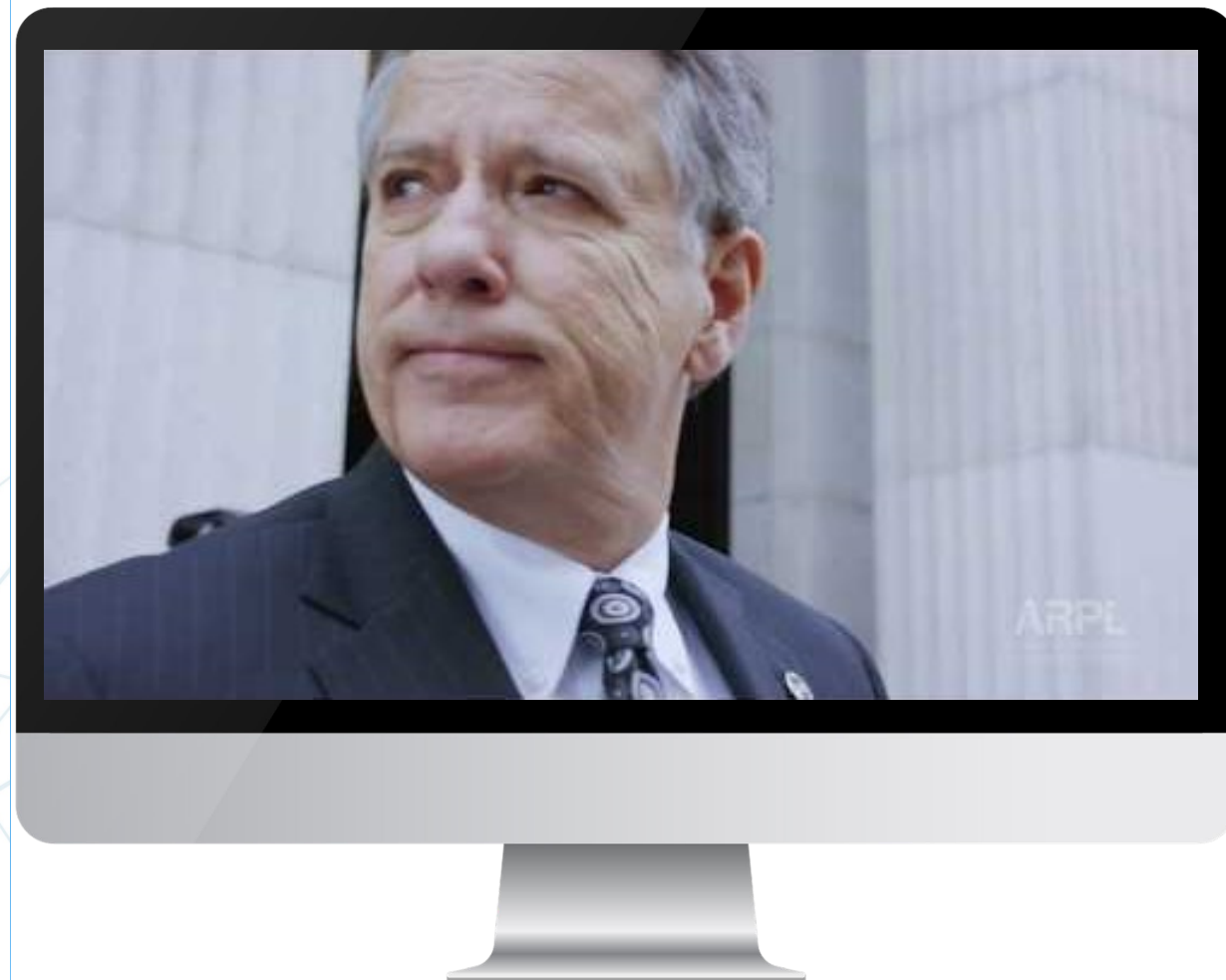
Public support for professional licensing backed up with data



Research-based arguments to counter inaccurate opposition populist appeals

ARPL

Alliance for Responsible
Professional Licensing



QUESTIONS

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Thank You!

*John W. Johnson, NASBA Director
Legislative and Governmental Affairs*

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State Regulatory & Legislative Affairs*

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Break

Next Session

***Non-Deregulation
Legislative Update***

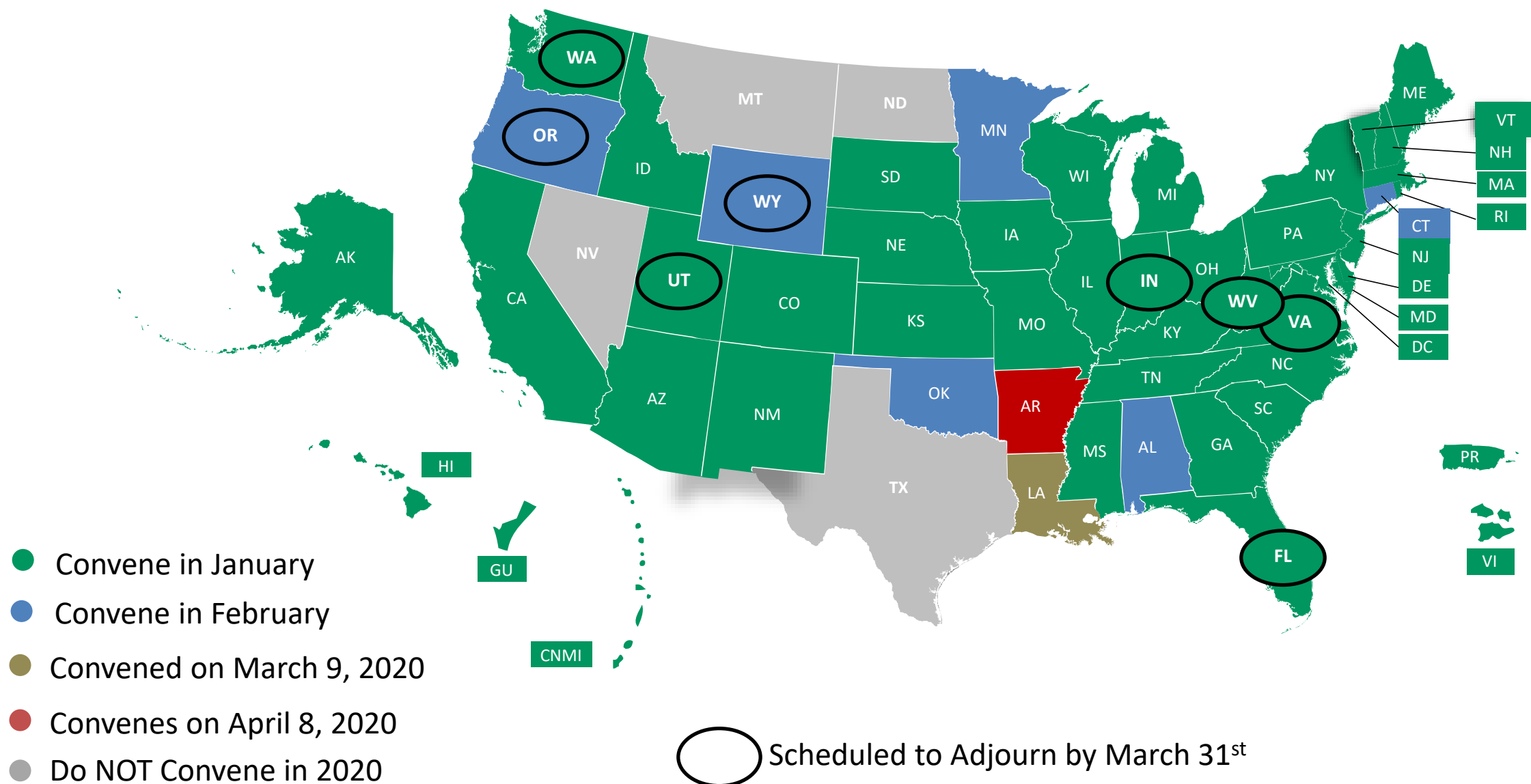
NASBA

Non-Deregulation
Legislative Update
March 31, 2020

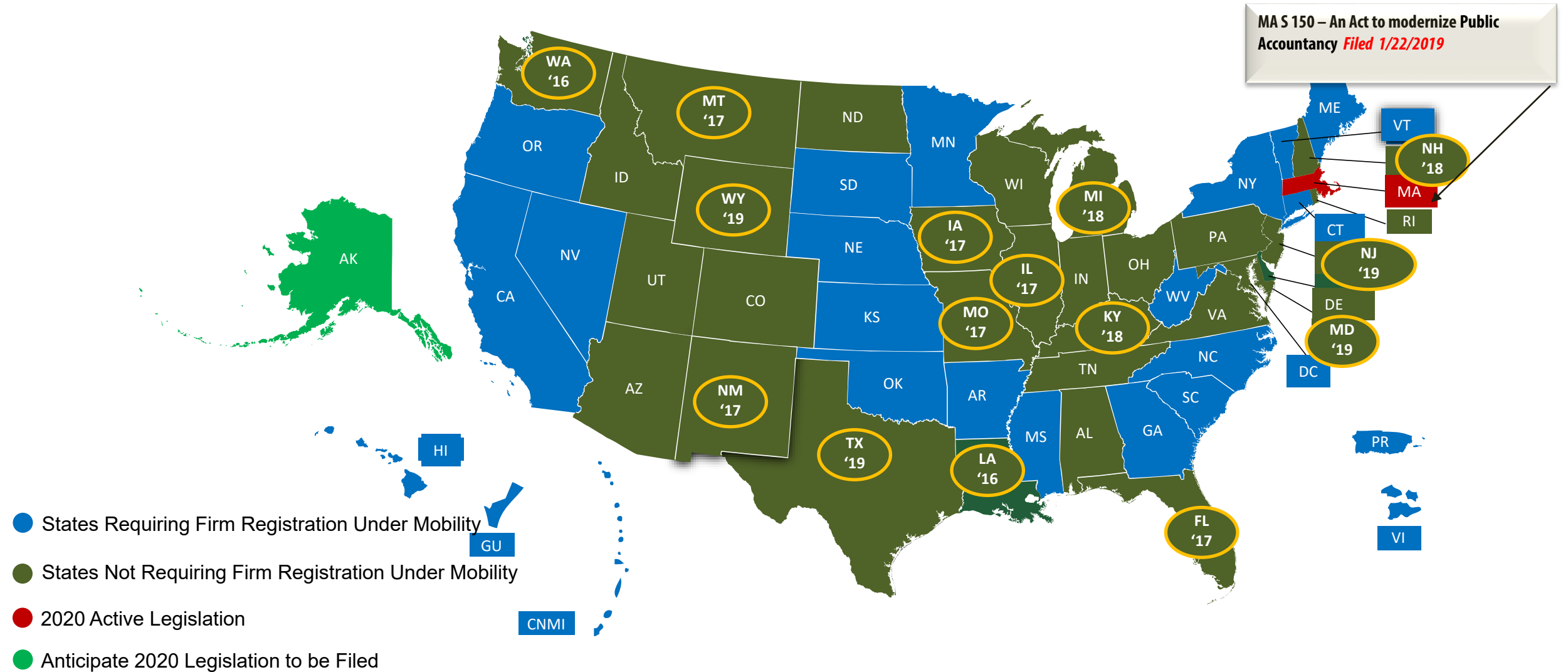
Joint Virtual Session
Executive Directors and Board Staff
Board Legal Counsel
State Society Executives

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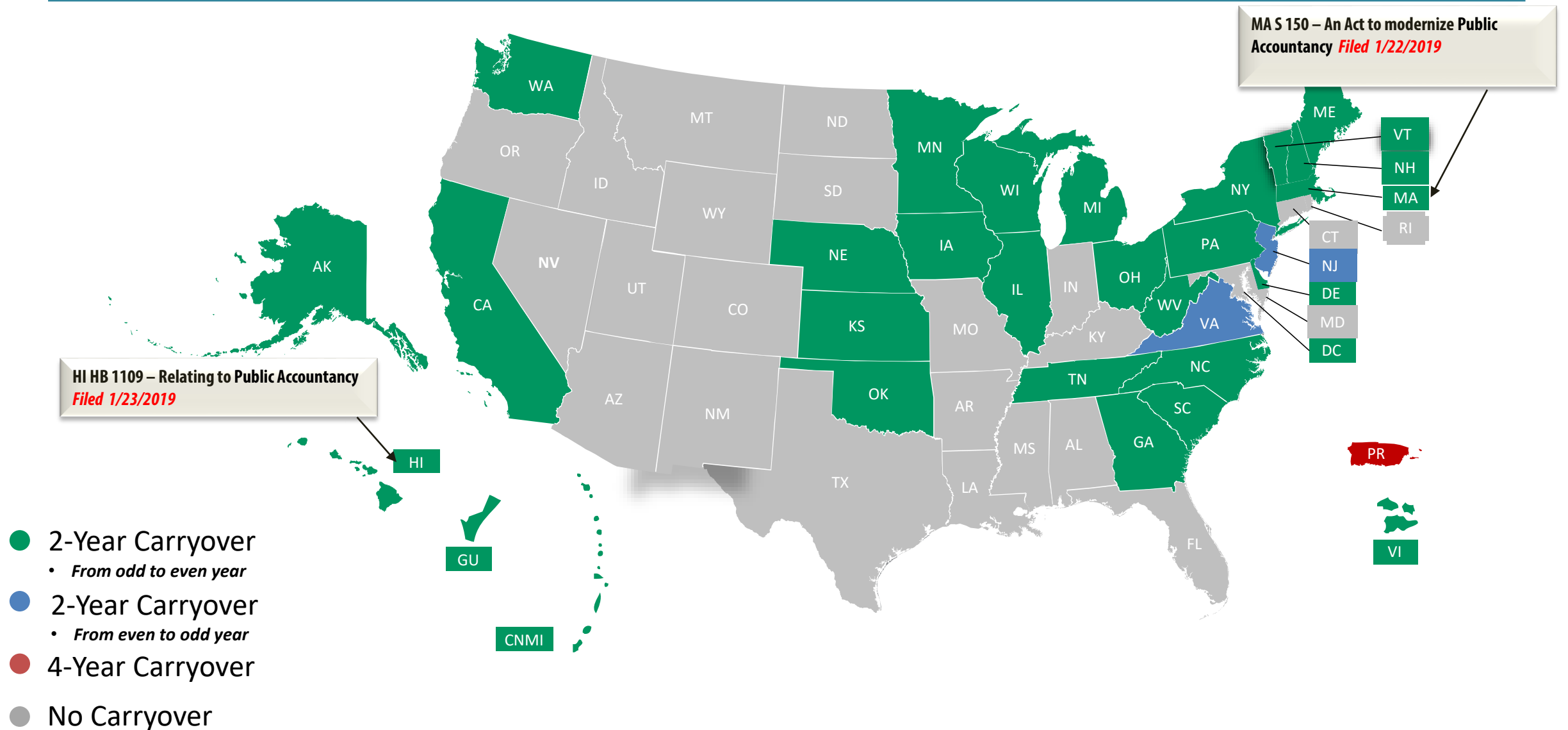
2020 Legislature Convene Month



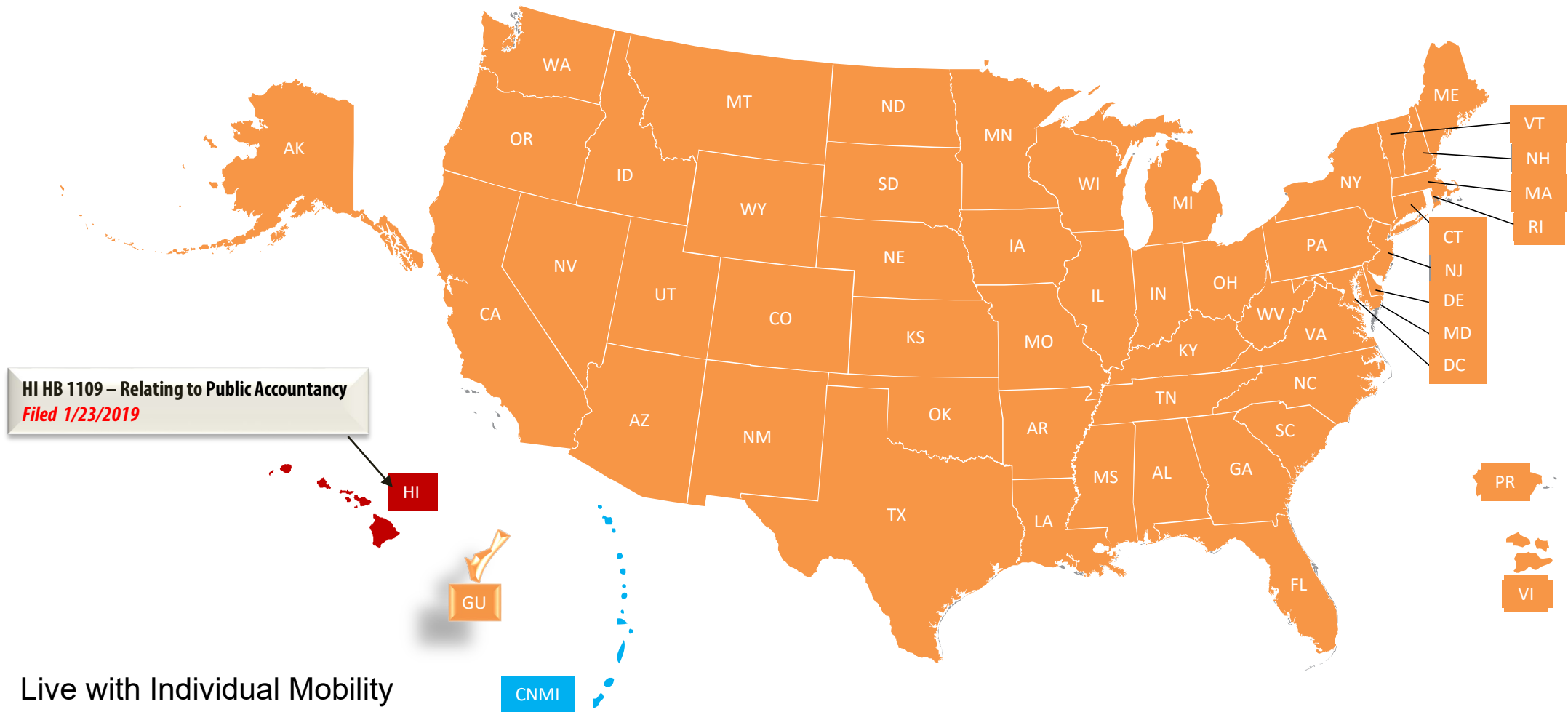
Firm Mobility



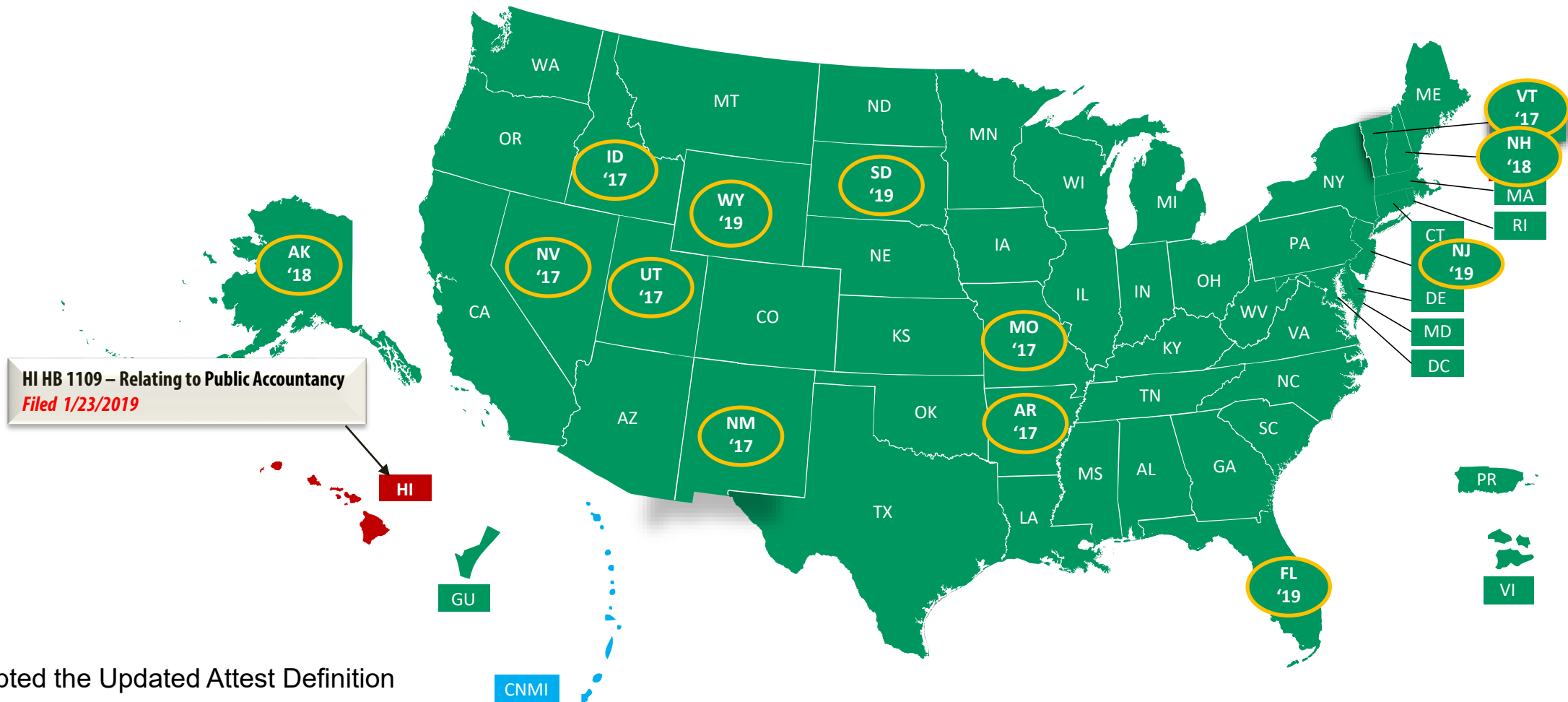
Carryover Legislatures



Individual Mobility

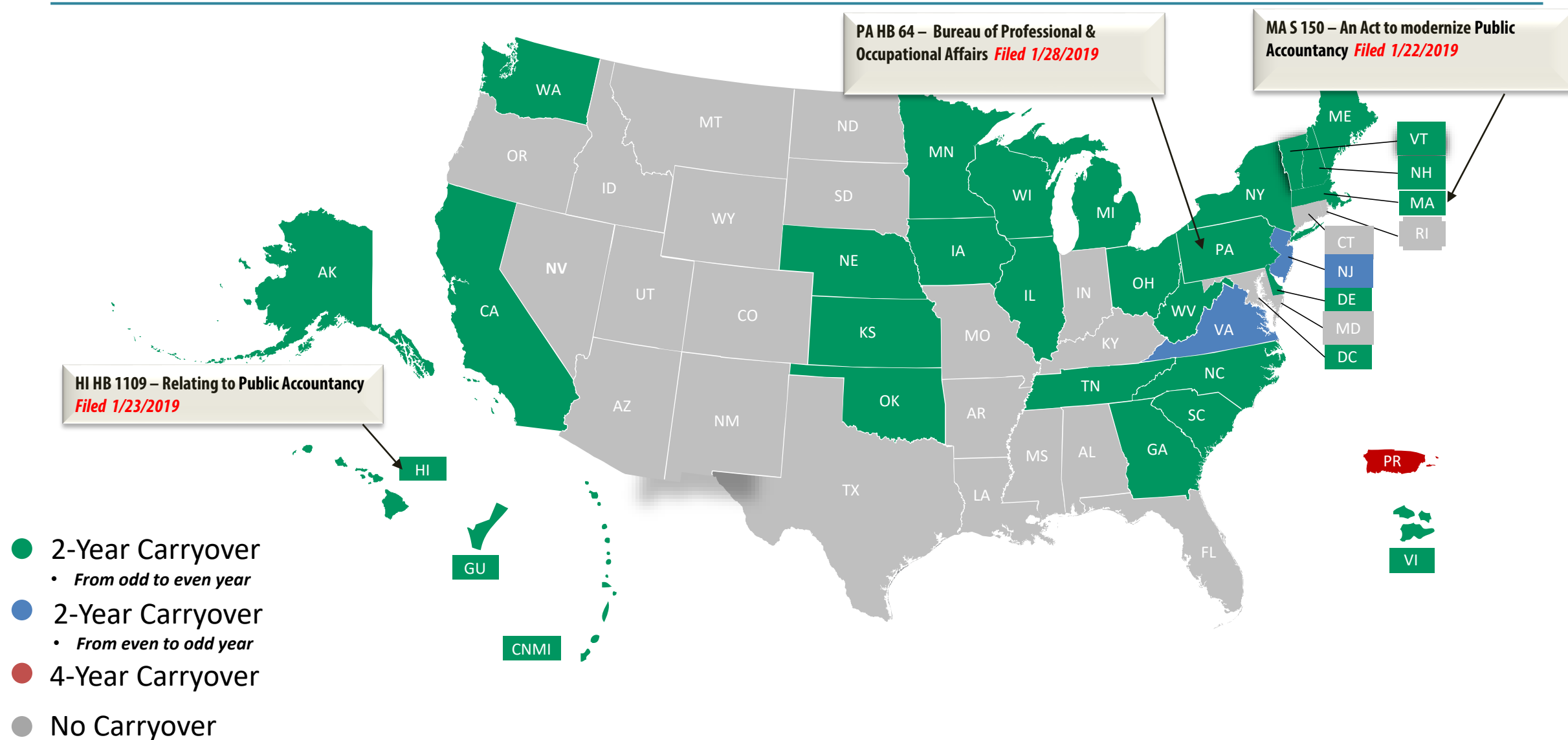


Comprehensive Definition of Attest

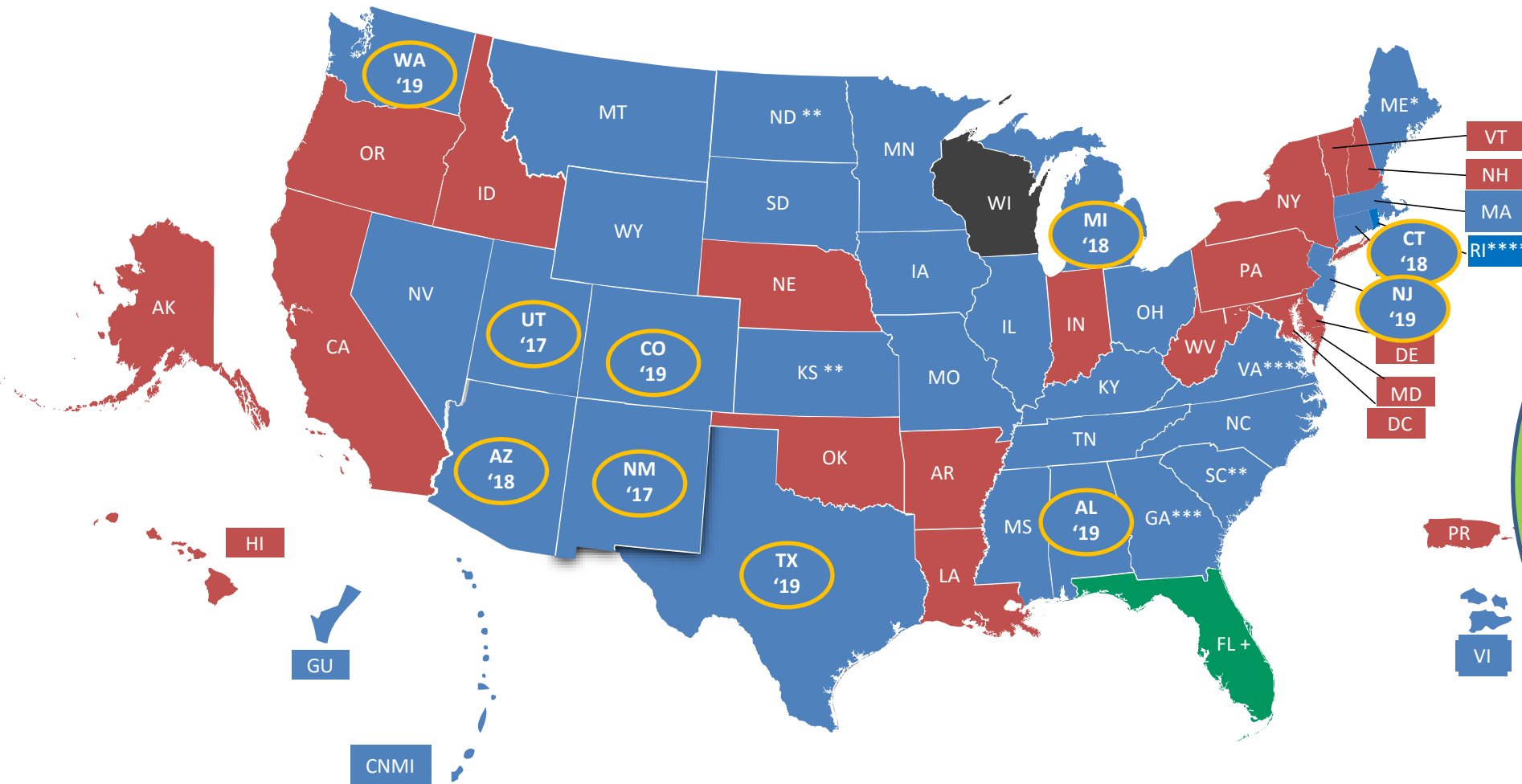


HI HB 1109 – Relating to Public Accountancy
Filed 1/23/2019

Carryover Legislatures



CPE Reciprocity



States that have **Full CPE Reciprocity**



**2020 Active Legislation
+ Failed to Advance**



States that have **No CPE Reciprocity**



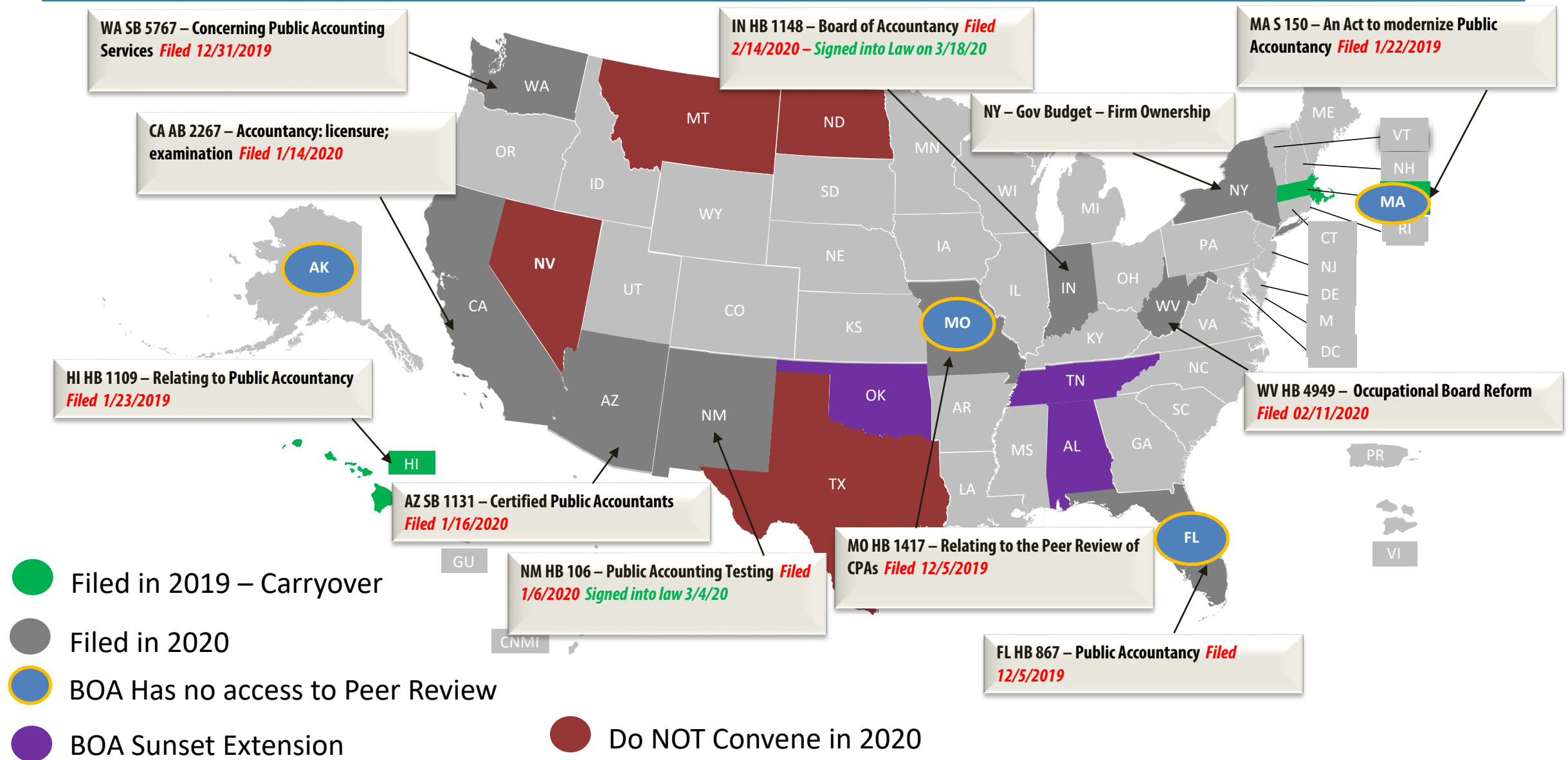
**CPE and CPE Reciprocity Legislation signed
into law 11/20/17 (Effective 12/15/21)**

- * The Boards have not promulgated any rules to implement the statutory provision
- ** The Board has the authority to determine if the CPE requirements of another jurisdiction are equivalent to the requirements of this jurisdiction
- *** The Board has the authority to determine if the CPE requirements of another jurisdiction are equivalent to the requirements of this jurisdiction

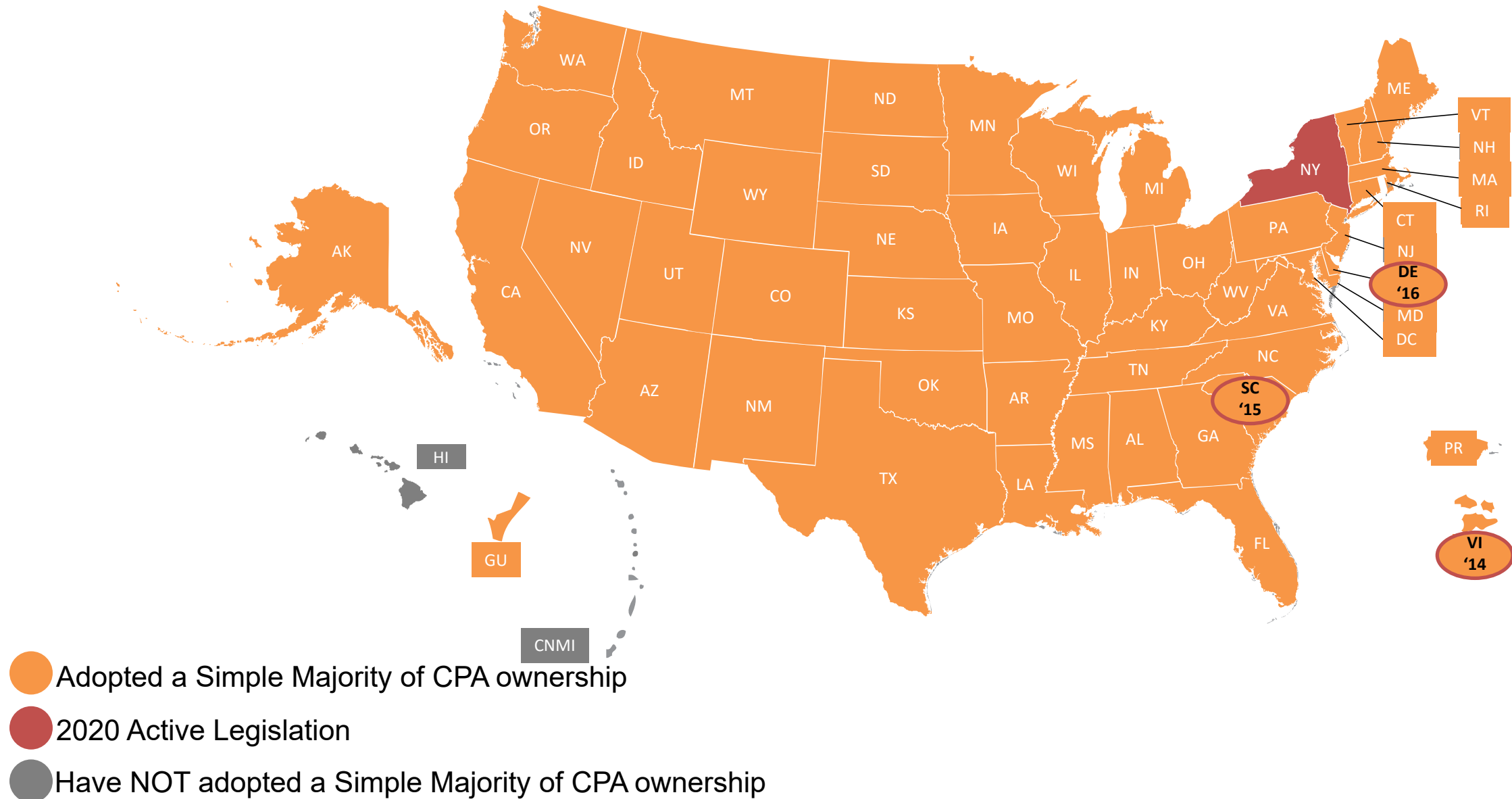
**Licensing
requirements vary
substantially by
state, creating
barriers to
workers moving
across State lines
and inefficiencies
for businesses —**

Institute for Justice

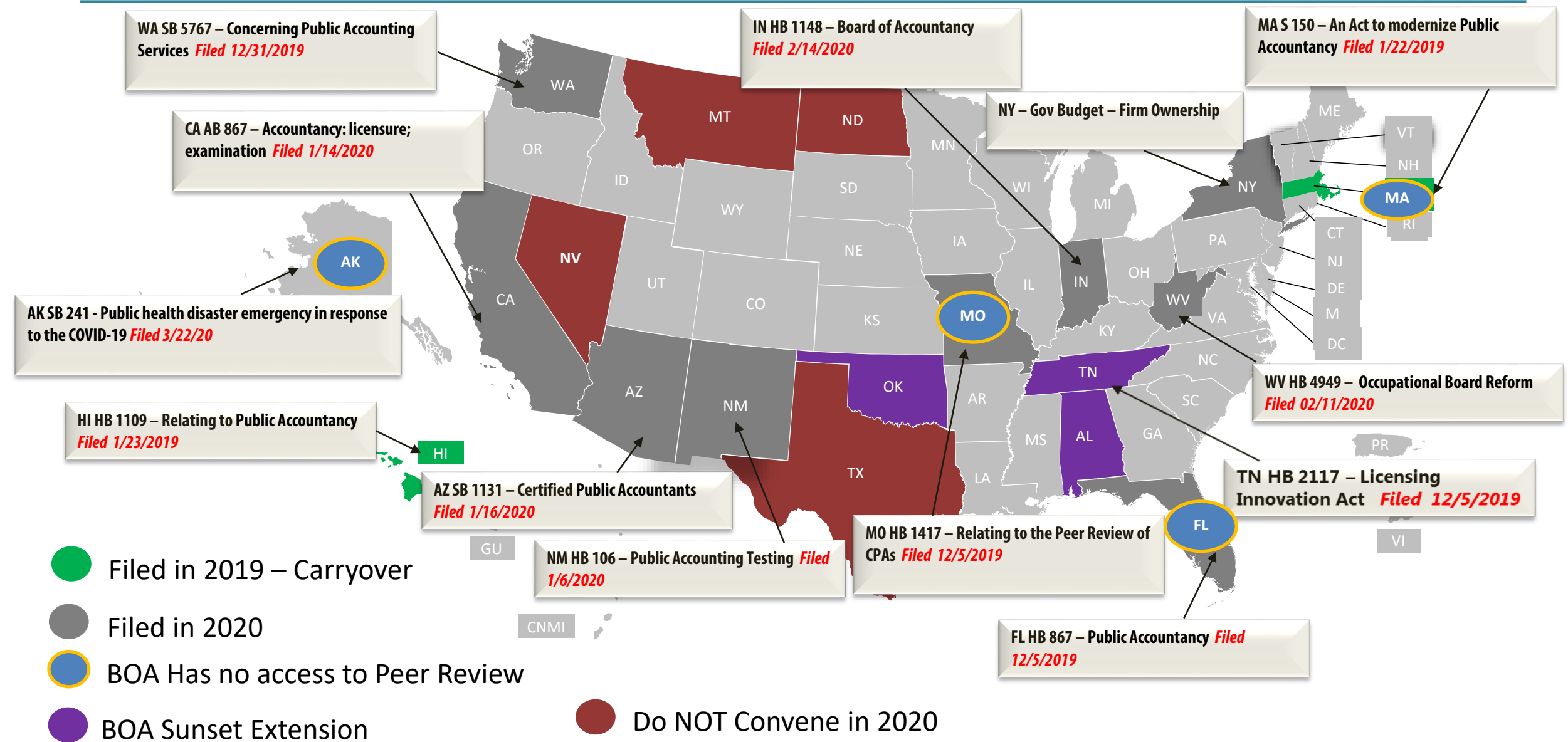
Legislation Filed in 2020



Firm Ownership



Legislation Filed in 2020



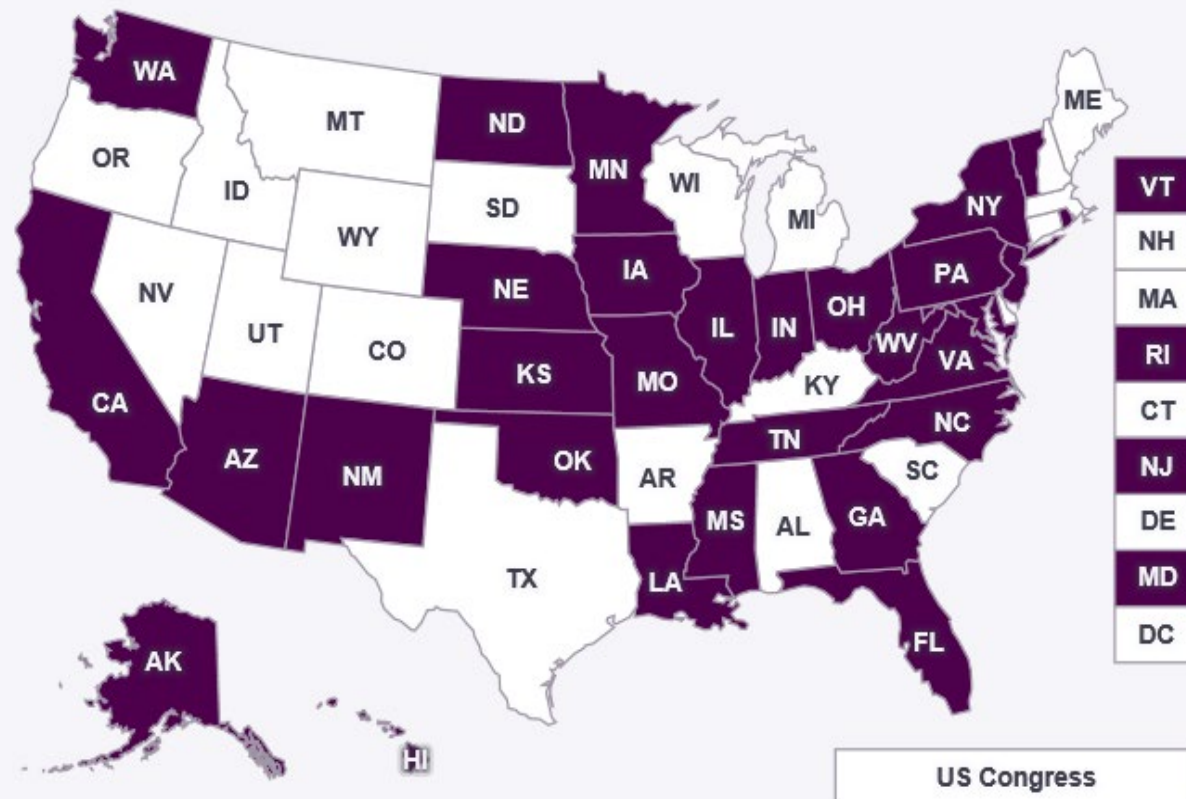
Military Licensure Legislation

Waive Application/License Fees

- Spouse or State-Registered Domestic Partners
- Immediate Family Members
- Veterans

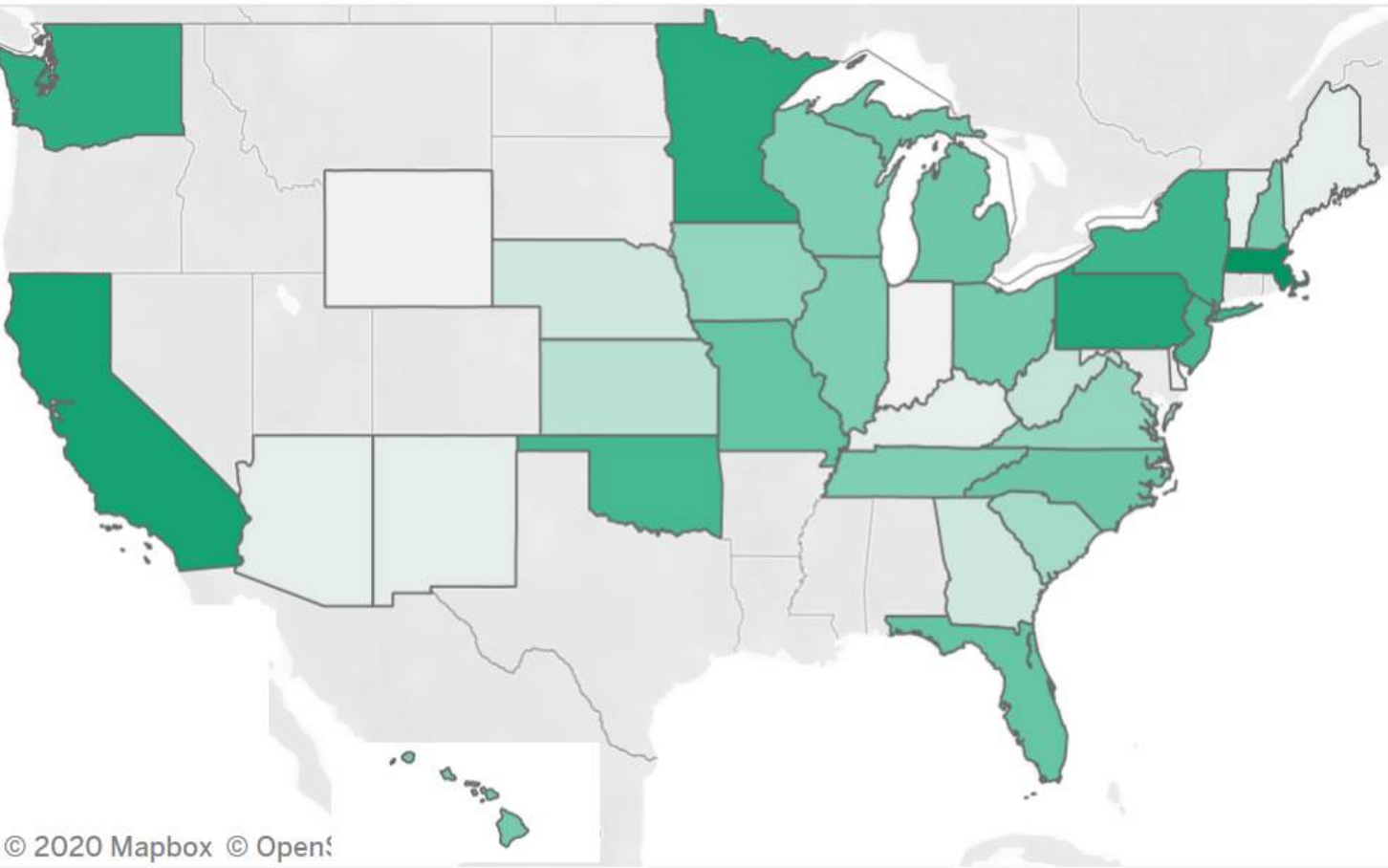
Licensure

- Expedite License by Endorsement
- Grant Automatic Reciprocal Licensure
- Waiver of licensure if licensee in good standing in another jurisdiction (GA OK)

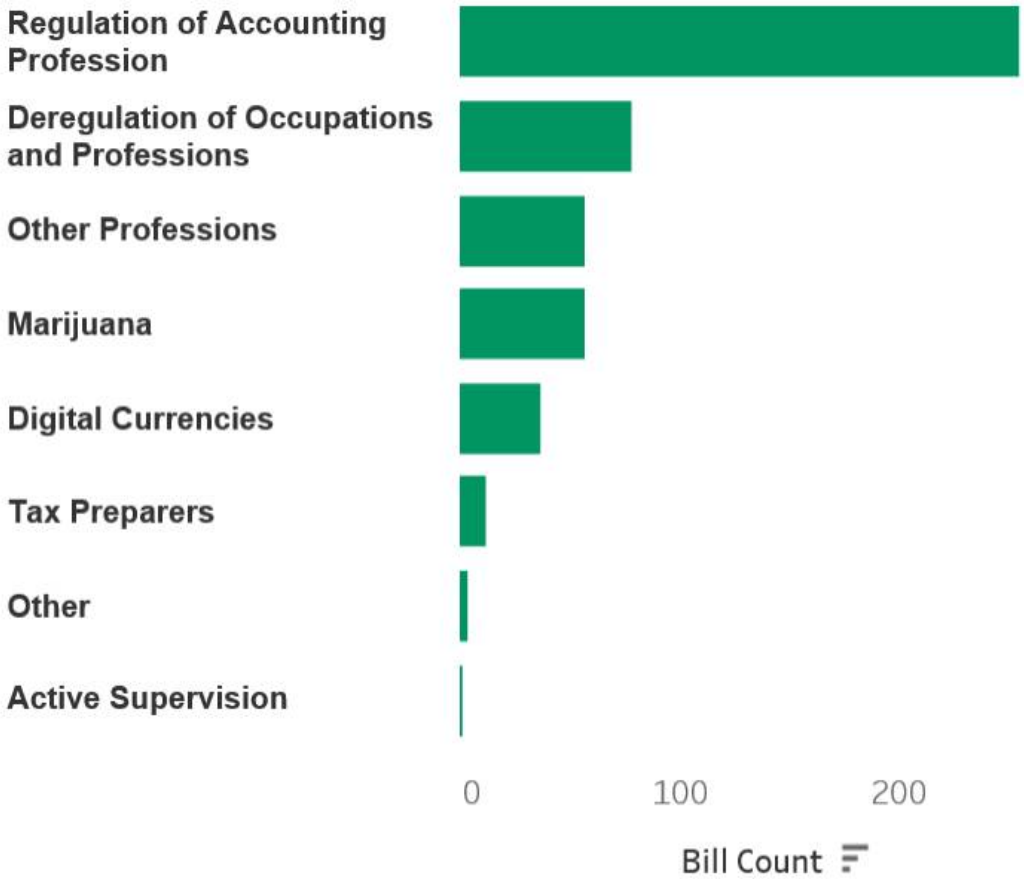


Legislative Bill Tracking

Select a state to filter by legislature



Select an issue to filter by state



QUESTIONS

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**PROFESSIONAL
LICENSING BOARDS**