

Policy Focus

Occupational Licensing

RECIPES FOR RATIONAL GOVERNMENT FROM THE INDEPENDENT WOMEN'S FORUM

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WHAT YOU NEED TO KNOW

Today, someone who wants to start a business or enter a profession may find that before they are legally allowed to do so, they must obtain a license from the government. A worker has to pass certain requirements – schooling, testing, paying fees – and in return gets an occupational license or government's permission to work in a given field.

Occupational licenses used to be required in only a few industries, but the number of jobs requiring government permission to operate has ballooned in recent years, from 10 percent of the workforce needing a license in 1970 to nearly 30 percent in 2008.

While occupational licenses are justified as necessary to protect consumers' health and safety, today, governments commonly require licenses for jobs that don't seem to need them, including blow-drying hair and interior design.

Often, the real purpose of the licensing regime is to protect existing businesses by stifling competition. This artificially raises the cost of products and services in license-protected industries.

The result is complexity for job-seekers, bureaucratic and legal barriers for innovators and entrepreneurs, higher prices and fewer options for consumers, less innovation, fewer opportunities for workers and lower economic growth overall. Some women-dominated industries have particularly ridiculous licensing requirements that harm women's prospects. Policymakers at all levels of government should seek to eliminate unnecessary licensing regimes.

WHY YOU SHOULD CARE

Occupational licensing rules ought to make sense for consumers and workers and balance public safety concerns with economic growth. The current spread of occupational licenses fails because it:

- **Stifles Competition and Forces Consumers to Pay More:** Licenses make it more difficult for companies and workers to enter industries, which leads to less competition, higher prices, and fewer options for consumers.
- **Often Serves No Public Purpose:** There is simply no legitimate reason for governments to require shampoo apprentices, florists, salvage vehicle dealers, equine massage therapists or natural-hair braiders to obtain occupational licenses. Rather such licenses are a misuse of public policy in favor of politically-connected established interests.
- **Hurts Job Creation and Restricts Employment Opportunity, Particularly for Women:** Some women-dominated industries stand out for having ridiculous licensing regimes that prevent women from entering a profession or starting a business. This hurts women's financial prospects, particularly women who have few other employment opportunities and are financially vulnerable.

We would all benefit from more rational, less restrictive licensing regimes that allow for more innovation and create greater economic opportunity.

MORE INFORMATION

Occupational licensing is meant to be a beneficial exchange between private enterprise and the government – what economist Morton Kleinert calls the “proper balance between freedom and order.” The government awards permission to work in a particular field or business to those who pass the predetermined requirements and who pay an entry fee. In exchange, private operators get a license to operate and the public gets the security of a government stamp of approval.

However, while licensing is supposed to advance public health and safety and prevent fraud, increasingly it is being used by entrenched interests to restrict entry and reduce competition. Overbearing licensing requirements hurt innovators and lower- and middle-class job seekers (especially women), and they impede economic growth.

The Growth of Occupational Licensing

The original – legitimate – intent of licensing may have been to protect citizens, but a quick review of where licensing has gone shows that today it is a convenient political weapon.

Consider a recent, high-profile case of occupational licensing being used to squelch competition: Ride-sharing services Uber and Lyft sought to offer their services to customers starting in San Francisco and then expanding to as many cities as possible. The service works through smart phones, as customers use an app to find a driver

who can pick them up and give them a ride to their requested destination. Customers pay through the smart phone app using a credit card. Uber founder Travis Kalanick explains the company's motivation as "we just wanted to push a button and get a ride....And we wanted to get a classy ride...That's all it was about."

Yet in cities like Miami, Pittsburgh, Chicago and Denver, existing taxi companies and limo services didn't want the competition. In Pittsburgh, the two (note there are only two) taxi companies wrote to Mayor Bill Peduto and the Pennsylvania Public Utility Commission (the responsible licensing authority) begging them "to arm City of Pittsburgh Police Officers ... with Citation Authority over vehicles operating like taxicabs or limousines, but not certified by the PUC." In other words, give Uber and Lyft drivers a big ticket so they'll stop encroaching on our business.

Regulators at the PUC were ready to do the taxi companies' bidding, but the mayor went on offense to push the PUC to change or redefine the regulations so that Uber and Lyft could operate. The controversy has been settled temporarily with the PUC granting each company temporary permission to operate while their formal applications are pending. But in Chicago and Miami, for example, the fight has been going on for months, with no resolution in sight.

This problem isn't limited to innovative new businesses trying to cut into market-share of existing incumbents, however. The number of occupations that require government licenses has ballooned and

includes businesses – interior design and blow-drying hair, for example – that don't obviously fall into the "protecting-public-safety" category. [The Institute for Justice reports](#) that "in the 1950s, only one in 20 U.S. workers needed the government's permission to pursue their chosen occupation. Today that figure stands at almost one in three."

According to the 2012 IJ study, "License to Work," the regulatory hurdle to enter an occupation "often does not line up with the public health or safety risk it poses." The study surveyed 102 occupations licensed in the 50 states and Washington, D.C., and found that "66 occupations have greater average licensure burdens than emergency medical technicians. The average cosmetologist spends 372 days in training; the average EMT only 33."

Licensing Impact on Workers and Consumers

Over-burdensome licensing regulations reduce consumers' options, leaving them with fewer choices and higher prices. Workers are also affected, facing costly requirements such as passing government-determined schooling and tests and paying fees before they can begin earning a living. Female-dominated industries face some of the biggest (and most irrational) licensing regimes, and the barriers are often greatest for low- and middle-income job-seekers, which means that licensing regimes often keep financially-vulnerable people from beginning their climb up the economic ladder.

For example, in Iowa, a new business focused exclusively on blow-drying hair might be shut down because practitioners are required to hold a cosmetology license. But as [the editors at the Des Moines Register explain](#), such a license is unnecessary in this case and the cost is exceedingly high. “Obtaining a cosmetology license requires 2,100 hours of education and training. Students must spend more than a year at a for-profit cosmetology school, paying thousands of dollars in tuition while providing beauty services to customers who also pay the school.” The Institute for Justice has [fought legal battles on behalf of several female small-business owners of African hair-braiding establishments](#) in states where the licensing rules demanded a cosmetology license even though the required education didn’t cover braiding and the business didn’t include services the license was supposed to cover.

As [e21’s Jared Meyer reports](#), when small business owners are surveyed, their top complaint – even beating out taxes -- is licensing and permitting. Would-be workers and any American concerned about the lack of job opportunities in our country should be equally concerned: Economist Morton Kleinerman concluded, that “licensing results in 2.85 million fewer jobs with an annual cost to consumers of \$203 billion.”

Rationalizing Occupational Licensing Regimes

The good news is that there are many options for fighting the problem of over-licensing:

Individual lawsuits

The Institute for Justice has championed lawsuits by individual business operators – from hair braiders, to equine massage therapists to food trucks – to fight for the rights of entrepreneurs to conduct their businesses without unnecessary government interference or regulatory hurdles meant to stifle competition.

Reducing the Regulatory Burden

In the summer issue of *National Affairs*, economists [Cass Sunstein and Edward Glaeser](#) wrote about the importance of bringing regulatory review from the federal level to state and local governments. They note that Ronald Reagan created a new way for the federal government to prevent unnecessary regulation by demanding “evidence-based justifications” for new rules. This was meant not only to prevent counterproductive new regulations, but also to force government to review previously passed regulations to see if they were sensible.

While the federal regulatory review process is less than perfect, it has encouraged more efficiency and prevented more harm. Applying regulatory review to the states could yield the same positive impacts.

Politics and Making the Case to Voters

Politicians are also becoming more aware of licensing as an impediment to economic growth and are embracing reform as a part of their platforms and agendas.

In 2013, Republican Gov. Terry E. Branstad of Iowa vetoed the licensing of addictive disorder counselors and related occupations, while in Indiana Republican Gov. Mike Pence vetoed the licensing of diabetes counselors and anesthesiologist assistants and dietitians.

Texas gubernatorial candidate Greg Abbot's platform includes reforming occupational licensing to reduce barriers to doing business. "There are currently 150 business activities that currently require a state-issued license before they can be legally performed in Texas. Some of these are necessary for the health and safety of our citizens... But many are unnecessary or overly burdensome. For example, why do we require a license to be an *interior designer*? Or a *salvage vehicle dealer*? Or a *'shampoo apprentice'*?" Abbot declares on his campaign website. This is an important matter for voters to hear and could lead to real change.

Reforming Licensing

Rather than removing licensing requirements, policymakers can also help increase economic opportunity by making requirements less onerous. For example, economist Kleiner suggests expanding occupational certification—a more easily obtained government-approval process—rather than licensing. Certification offers a lower regulatory burden, even as it improves economic growth prospects for small businesses. Lawmakers should also review other requirements that create unnecessary barriers to entry for workers and new businesses and seek to offer alternatives that serve

the purpose of protecting consumers, without preventing competition.

Lawsuits, regulatory review at the state level, abandoning unnecessary state licensing of certain occupations and reforming unnecessarily burdensome requirements would go a long way to improving the job prospects of workers and entrepreneurs as well as spurring great economic growth.

Victory Against a Licensing Regime

The Institute for Justice has won several victories for mostly female business-owners of African hair braiding establishments by challenging the need and legality of licensing schemes. In many states, braiders must have cosmetology licenses, which require paying thousands of dollars for lengthy schooling programs that don't even include braiding in their curriculum. Braiders do not use any potentially hazardous chemicals in their work. In various states, the hair-braiders and their attorneys at IJ worked through the legal and political system to remedy these unnecessary licensing regimes.

In Washington State, the Department of Licensing changed the definition of who requires a cosmetology license so that braiders do not fall into the category. In Mississippi, Gov. Haley Barbour signed a law amending licensing requirements for braiders. Now braiders simply must "pay a \$25 registration fee to the Board of Health and complete a short self-test on basic health and sanitation guidelines." In Arizona, the legislature exempted braiders from state cosmetology requirements, and in Utah, a judge struck down the state's hair-braiding licensing law as unconstitutional.

These are victories for entrepreneurship, economic growth, and freedom.

WHAT YOU CAN DO

- **Get Informed:** Learn more about the need to reforming licensing practices across the country. Visit:
 - [The Institute for Justice](#)
 - [A Policy Report by Economist Morris Kleiner](#)
 - [Analysis by Economists Kleiner and Alan Krueger](#)
- **Talk to Your Friends:** Help your friends and family understand these important issues. Tell them about what's going on and encourage them to join you in getting involved.

- **Become a Leader in the Community:** Get a group together each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.
- **Remain Engaged Politically:** Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

ABOUT THE INDEPENDENT WOMEN'S FORUM

The Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility.

IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.

We rely on the support of people like you! Please visit us on our website www.iwf.org to get more information and consider making a donation to IWF.

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