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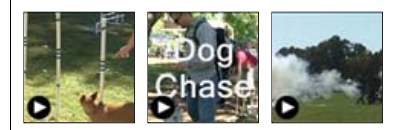
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Licensing Another Way Government Size Grows

Texas has an ever-growing class of criminals, lurking in dark places, just waiting until our backs are turned so that they can clean our drains, referee our sporting events and tattoo our racehorses.

Seriously.

"Did you know Texas licenses egg brokers, rose graders, and drain cleaners?" asks Marc Levin of the Texas Public Policy Foundation.



Doing these jobs without a license carries criminal penalties, he explains. As a result of this over-criminalization of occupational licensing, the size of government has grown -- nearly a third of the Texas workforce is now in a licensed or regulated industry.

"This month, the Texas Legislative Council released an exhaustive 299-page report detailing more than 500 regulated occupations and related criminal penalties," Levin reports. "The report unearths numerous occupations

that most Texans probably never thought were regulated. Those who must obtain a government license to practice their trade include florists, vegetable seed sellers, racehorse tattooists, talent agency operators, sports referees, and wig servicers. Who knew that one needed government authorization to tattoo a racehorse or adjust a wig?"

There are 129 pages of penalties, many of them criminal offenses, on the books.

"The default penalty is a Class A misdemeanor, punishable by up to a year in jail, for violating any occupational rule," Levin says. "Also, there are many occupation-specific felonies, such as delivering grain without proper documentation."

And lawmakers seem to want even more licensing rules.

"Various bills that failed last session would have licensed auto mechanics, roofers, sheetmetal workers, journeymen and lactation consultants," he told a House committee in July. "In the cases of roofers and mechanics, more well-established groups within the occupation sought licensing that would have the effect of excluding competitors and allowing them to raise prices charged to consumers."

But excessive licensing has other drawbacks, as well.

"First, it expands the scope of criminal law beyond those who harm others and are therefore truly blameworthy," Levin contends. "Second, it undermines job growth and drives up prices for consumers by artificially excluding capable service providers. Economist Morris Kleiner has estimated that the deadweight loss to society from occupational licensing is between \$34.8 billion and \$41.7 billion per year."

And it excludes thousands of qualified workers unnecessarily.

"Finally, when locksmiths were licensed in 2003, thousands of locksmiths who had perfect professional records were purged due to a prior criminal offense -- often a long-ago and unrelated misdemeanor such as drunken driving," Levin says.

When the Legislature convenes in January, lawmakers should explore the elimination of some licensing categories, and resist the temptation to increase the number of occupations and workers that must be licensed. It should also create a provisional licensing route for nonviolent ex-offenders.

We have enough real criminals to worry about, without making new ones of flower arrangers.

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