



# The Realities of Occupational Licensing

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## Key Points

- Licensing acts as a form of protectionism for those who work in licensed professions by restricting access to jobs and stifling job creation.
- Contrary to the claims of its supporters, licensing laws often do not contribute to increased public safety.
- Changing technology and increased access to information, particularly the rise of the Internet, has rendered many licensing laws obsolete.

## Introduction

Consider the following scenario: an average college student in Texas who lacks spare funds needs a quick haircut. Fortunately for him, a friend offers to cut his hair for \$5, a fraction of what a barber would charge. Valuing price and convenience over quality at the time, the student takes his friend up on his offer and receives a cheap haircut. All was well—but little did the student realize the charitable act placed his friend in violation of state law since he did not possess a barber's license in the state of Texas.

Occupational licenses may not seem like a hot topic issue, but with 29 percent of all jobs in the United States now requiring some form of license (Kleiner and Krueger, S173), the time has come to take a long and hard look at the economic realities of these licenses.

Supporters of occupational licensing claim they are necessary to safeguard the quality of licensed services, hold practitioners to safety standards, and prevent unethical and dangerous practices. The evidence, however, paints a different picture; licensing laws act more as a form of protectionism for those in licensed professions while blocking access to jobs, stifling job creation, and hindering technological development and access to information. Similarly, increasing technology and market advances are making governmental regulation of occupations increasingly obsolete. If Texas wants to further expand the economy, it should remove this barrier to employment and allow market-based solutions to market problems.

## Background

The debate over occupational regulation has raged since the founding of modern day economics. In *Wealth of Nations*, author Adam Smith lamented that tradesmen seek to establish regulations limiting the number of apprentices per master to “restrain the competition to a much smaller number than might otherwise be disposed to enter into the trade (Smith, 98).” Milton Friedman further speculated that governments and professional organizations issuing licenses were not unbiased gatekeepers and that these licenses served to create monopoly rents by creating more barriers to employment (Friedman, 118).

Occupational regulation falls into three principal categories: registration, certification, and licensing, which is the most restrictive of the three. Registration requires those who are employed in a specified occupation file their names, address, and qualifications with a government agency, usually for a fee. Certification allows individuals to perform all the tasks of an occupation, but restricts the use of a government certification attached to a professional title to individuals who meet certain government requirements. In Texas, for example, opticians are certified—not licensed. Anyone can perform the duties of an optician, but only those who meet both certain government-established criteria and register themselves with the government can advertise themselves as “registered dispensing opticians.” Licensing is the most restrictive form of occupational regulation. It requires an individual to meet some level of training, experience, or other qualifying criteria before the government issues a permission slip for the individual to legally perform the tasks of a specific licensed profession for compensation.

In the United States, occupational licensing has seen a steady rise since the 1950s when only about 5 percent of occupations required licensing, which were generally confined to the medical and legal fields. Since then, however, occupational licensing has reached a far greater level of prominence as the United States has shifted away from a manufacturing to a service-based economy. This coincides with a decrease in union membership (Kleiner and Krueger, S177). Unions and occupational licensing have a similar effect on wages by limiting the supply of workers, so when the economy began its shift, groups of professionals increasingly turned from unions to this new method of increasing wages and providing job protection.

Even interior designers and florists have recently made concerted efforts to secure licensing for their professions. Without a determined effort to stop this trend, the push toward occupational licensing will likely increase as more and more professional organizations petition legislators to license their trades as well.

### Public Safety or Protectionism?

The traditional arguments in favor of occupational licensing claim it serves to enforce safety standards and protect the public from unethical and dangerous behavior. This in turn, according to supporters, drives up consumer confidence and increases demand for goods and services provided by licensed professions (Timmons and Mills, 4).

Texas licenses a wide spectrum of occupations. On one end of the spectrum, most people would agree physicians and other medical professionals should require licensure, as small mistakes can lead to fatal consequences. Near the middle, there is a moderately coherent argument that professions like security guards or pest control specialists should require licenses. These kinds of vocations do require specialized training to insure public safety, although licensing itself does not necessarily increase safety, and professional or even government oversight is possible in ways that do not bar access to these professions.



At the end of the spectrum, however, there are licensed fields where there is little to no apparent public risk associated with allowing people in these occupations to practice without one. These jobs include travel guides, auctioneers, barbers, and even shampooers. Texas is, in fact, one of only five states to license people to shampoo a customer's hair. That the vast majority of states can survive without this license makes it even more obvious that it does not serve to protect the consumer, and that there is no threat to society posed by unlicensed shampooers. It also serves to highlight that even licensing for doctors and security guards is in part motivated by protectionism. Therefore, all types of occupational licenses should be reviewed, even if some might not be eliminated.

The majority of licensed occupations, especially those with average to low income, are only licensed in certain states. For instance, fire alarm installers, a field where there is some danger associated with incorrect procedure, are licensed in 34 states including Texas. However there is nothing to suggest that states that do not license fire alarm installers suffer from an abundance of harm associated with an incorrectly installed fire alarm. One would expect that if these licenses were indeed necessary to insure public safety, there would be a greater consistency of these licenses across state borders, but that simply isn't the case (Carpenter et al).

Licensing alone does not necessarily prevent unethical practices from occurring. Dishonest people can still engage in unethical practices regardless of the threat of losing their license. In fact, because of the centralized, bureaucratic nature of governmental occupational licensing, the threat of losing a license may be small or even nonexistent, providing little incentive for a licensee to behave ethically, promote public safety, or satisfy consumers (Summers, 4). On the other hand, competition in the market will often correct these problems by simply forcing unwanted businesses to shut down without the added threat licensing. An effective tort system where

consumers can recover damages to their person or property is also better suited to correcting these problems than the power of government intervention. In this sense, market forces—including private certification and licensing—may better serve consumers and enforce principled business practices.

If these licenses do not serve to protect consumers, the question must be asked: who does benefit from them? The answer can again be found when evaluating the differences between states that license certain occupations versus states that do not. Economists Morris Kleiner and Alan Krueger (S179) found that requiring a license is associated with a 15 percent increase in hourly wages for those professions. Supporters argue that this wage increase is a result of increased quality of goods and services provided. However, by restricting the labor supply, licenses can stifle competition and actually reduce quality since businesses are no longer under as much pressure to excel. It is far more likely that this wage increase is indicative of a closed shop model perpetuated by licensing.

Far from the noble claims of licensing supporters, licensing can actually decrease public safety when artificially high prices deter people from seeking professionals with expertise and instead turn to either black-market services or attempt potentially dangerous practices instead of hiring a professional (Summers). In short, rather than addressing public safety issues, occupational licensing often better serves to protect the wages of those with licensed professions by controlling the labor supply, ultimately to the detriment of the consumer.

*Texas has the nation's 17th most burdensome licensing laws, according to the Institute for Justice.*

### Cruel and Unusual Requirements

If the primary purpose of licensing is addressing public safety concerns, then the requirements to attain a license should match up with the relative danger of the field. However, this does not seem to be the case when one takes a closer look at many licensing requirements.

The public interest law firm, Institute for Justice, estimates Texas has the nation's 17th most burdensome licensing laws (Carpenter et al). According to its national study, License to Work, the Institute for Justice shows that Texas issues less licenses than most states, but imposes higher average educational requirements for licensed professions. The average fees required for licensing in Texas is \$304, ranging from \$45 for locksmiths to an exorbitant \$4,800 for commercial fishers, which is 10 times higher than the national average (Carpenter et al).

It takes a mere 33 days to earn a license as an emergency medical technician in Texas, a field where incorrect procedures can lead to death. Contrast that to the 117 days required to be a licensed massage therapist or the disproportionate 350 days it takes to be licensed as a barber (Carpenter et al). Barring a freak shaving accident, a bad haircut is likely the worst that could happen to a consumer from a bad barber. It stands to reason that these needlessly demanding requirements to order to attain a license must have a purpose other than public safety.

Another good example of the inequity present in licensing requirements is coaching positions for school sports. Texas is one of four states, including Washington D.C., that also requires its coaches to be licensed teachers (Carpenter et al). This can add four years or more to the training requirements to coach school sports, much of which is irrelevant to the actual tasks of their preferred profession.

The protectionist nature of licensing restrictions can be seen in the fact that section 165.151 of the Occupations Code makes it a Class A misdemeanor to violate the rule of a professional licensing board covered under the Occupations Code (Levin, 1). This is punishable by up to one year in jail. Remember the example of a college student cutting a friend's hair for \$5? Punishing him in such a harsh way for an act that doesn't legitimately harm anyone is extreme. It flies in the face of the tremendous criminal justice reform that has been accomplished in Texas. Simply put, it is unjust to impose such heavy sanctions on voluntary transactions.

## Who Bears the Burden?

Occupational licensing benefits those in licensed fields by increasing their wages to the detriment of consumers who are forced to pay artificially higher costs for goods and services. However, consumers are not the only ones who bear the burden caused by occupational licensing; the weight also falls heavily on the backs of those who wish to enter licensed fields but cannot afford to invest the time and money required by licensing. This is most often the case for those on the lower rungs of the economic ladder (Carpenter et al). Licensing laws deny them access to jobs that could help lift them up to higher levels of economic prosperity, and represent an inequity of treatment in the law that favors those in the middle class at the expense of the poor.

In addition to preventing access to employment, licensing laws also stifle job creation since many of these licensed fields have great potential for entrepreneurship (Carpenter et al). A study by the Reason Foundation states licensing reduces the rate of job growth for licensed professions by up to 20 percent, with the total cost of licensing nationally estimated to range from \$34.8 to \$41.7 billion annually (Summers, 4). Without the barriers levied by licensing, enterprising individuals could not only lift themselves up, but also help others in their community by providing much needed employment opportunities.

## Increasingly Obsolete

Another critical aspect in the debate over occupational licensing is how new technology has changed the marketplace in ways that make licensing increasingly obsolete. Many of the traditional arguments for occupational licensing are centered on the fact that consumers need protection from unsafe business practices. Licensing allegedly assures them of the quality and professionalism of the good or service they are purchasing. Recent changes in technology, particularly the historic rise of the Internet, are rendering that argument ever more invalid.

In this day and age, a wide variety of services is available that greatly reduces the classical asymmetry of information between sellers and buyers (Tabarrok and Cowen). These range from professional sources like Consumer Reports to informal consumer ratings websites like the popular Yelp.com. Many consumers now use some form of online rating when considering purchasing a product, and have to come to rely on the Internet for a variety details concerning the products and services they purchase, including making sure both the vendor and product or service is safe.

The advent of this new technology has greatly reduced the relevancy of occupational licenses as consumers are turning to market-based sources to make their financial decisions, rather than relying on government bureaucrats to protect them. This allows consumers to decide which good or service is right for their particular needs and gives them greater freedom when making choices that affect them and their families.

## Solutions and Suggestions

To address the rise of occupational licensing policy makers have numerous options available to them. The ideal solution would involve closely examining the current set of occupational licenses and working to eliminate those

The screenshot shows a Yelp search for "travel agents" in Austin, TX. The results are as follows:

Rank	Business Name	Reviews	Address
1.	Tramex Travel	11 reviews	4505 Spicewood Springs Rd Austin, TX 78759 (800) 527-3039
2.	Honeymoon Guru, LLC	3 reviews	Austin, TX (512) 636-0529
3.	Cruise Holidays of Northwest Austin	23 reviews	9901 N Capital of Texas Hwy Austin, TX 78759 (512) 338-8880

Testimonials for the top three agents:

- Tramex Travel:** Dalia Nuemberger has been our travel agent for 11 years and she has arranged and booked the two biggest and BEST trips we've ever taken - our honeymoon and our 10 year anniversary trip, as...
- Honeymoon Guru, LLC:** Skip is the best travel agent I have ever had the pleasure of doing business with. What surprised me was the time he took to get to know what we were looking for in a anniversary trip so he...
- Cruise Holidays of Northwest Austin:** Diane recently booked us a cruise to Alaska, this was our first time to use a travel agent, now I will always use a travel agent! Our trip was fantastic, even that description falls short...



that do not serve any real public interest. Occupations like auctioneers, barbers, cosmetologists, travel guides, and shampooers are among those for whom licensure is questionable at best, and should be given first consideration when deciding on which licenses to abolish.

Other measures legislators could take include decreasing the barrier to employment created by licensing by reducing the educational and experience requirements for attaining a license. This would allow more individuals to gain access to these fields. Additionally, the excessively high fees that primarily serve to keep people out of the field and reduce competition rather than protect the public should be lowered.

While all types of occupational regulation restrict access to employment on some level, licensing is by far the most severe. Converting some licenses to less restrictive forms of regulation, like registration and certification, would allow government could maintain some form of oversight while minimizing the effects on employment. Jobs such as preschool teachers, athletic trainers, coaches, and animal trainers are prime examples of occupations that might benefit from a certification program allowing consumers to choose a certified or an uncertified professional according to their individual needs.

If some licenses were eliminated they might be replaced with private, professional organizations that could serve similar purposes by insuring practitioners have met a certain level of expertise, thus providing consumers with additional information without the barrier to employment. Similar to board certifications in the medical field, this also could allow practitioners to advertise their expertise in specific aspects of their trade. Presenting consumers with the information required to make good purchases is fine, but should be left to the marketplace—not to government.

Texas legislators should also limit the rise of occupational licenses by applying strict scrutiny to any new licensing laws while carefully weighing the public safety aspect. The law should be changed to require a three-step process for any new occupational licensure: 1) the Legislature must first pass a law authorizing a licensing agency to review the need for licensing or registration in a particular field; 2) the agency must review the need, and then report its findings to the Legislature; and 3) the Legislature then may pass a law requiring licensing or registration of the occupation in question.

## Conclusion

Texas has always been the foremost proponent of economic freedom, and occupational licensing represents another issue for Texas to take the lead in, by unleashing the power of market-based solutions. Occupational licenses bar individuals from the employment opportunities needed to better their lives in favor of increasing the wages of those in licensed professions. Furthermore, the steps required to achieve many licenses are overly burdensome when compared to the relative danger of the tasks involved. Finally, government-issued licenses are becoming increasingly arbitrary by advances in technology which remove the traditional asymmetry of information between buyers and sellers.

It is likely that there is little—if any—need to license any new occupations. Texas should reduce or eliminate existing licensing requirements and limit or bring to an end to the licensing of additional occupations. The Lone Star should continue to light the path and pave the way in the advancement of liberty-based policies throughout the nation by unleashing the power of the free market and allowing consumers the freedom to make their own choices about who to hire to serve their needs. By letting people solve their own problems without government intervention, the path to prosperity will open for everyone. ★

## Bibliography

Carpenter, Dick Ph.D., Lisa Knepper, Angela Erickson, and John Ross. "[License to Work: A National Study of Burdens form Occupational Licensing.](#)" (updated April 24, 2012) Institute for Justice.

Friedman, Milton. 1962. *Capitalism and Freedom*. Chicago: University of Chicago Press.

Kleiner, Morris and Alan Krueger. 2008. "[Analyzing the Extent and Influence of Occupational Licensing on the Labor Market.](#)" *Journal of Labor Economics* 31 (2): S173-S202.

Levin, Marc. 2007. "[The Preoccupation with Occupational Licensing.](#)" (May) Texas Public Policy Foundation.

Smith, Adam. 1776. *Wealth of Nations*. New York: Modern Library Edition.

Summers, Adam. 2007. "[Occupational Licensing: Ranking the States and Exploring Alternatives.](#)" Reason Foundation.

Tabarrok, Alex and Tyler Cowen. 2015. "[The End of Asymmetrical Information.](#)" (April 6), Cato Unbound.

Timmons, Edward J. and Anna Mills. 2015. "[Bringing the Effects of Occupational Licensing into Focus: Optician Licensing in the United States.](#)" (February) Mercatus Center, George Mason University.



## About the Author



**Bill Peacock** is the vice president of research and director of the Texas Public Policy Foundation's Center for Economic Freedom. He has been with the Foundation since February 2005. Peacock has extensive experience in Texas government and policy on a variety of issues including, economic and regulatory policy, natural resources, public finance, and public education. His work has focused on identifying and reducing the harmful effects of regulations on the economy, businesses, and consumers.

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