

Occupational Licensing

Principles

- Citizens have a right to pursue a legal occupation, and the burden should fall on the government to justify any restrictions to that right.
- Restrictions on economic liberty should be targeted at protecting health and safety, and policy-makers should demand proof that there is a clear, likely and well-established danger to the public.
- Government should use the least restrictive means to address any danger to the public.

Recommendations:

- **Create protections for economic opportunity:** Protect economic opportunity by creating a statutory right to an occupation; requiring proof of a clear, likely and well-established danger to the public, and ensuring that less restrictive means have been tried before resorting to professional licensing.
- **Reduce, convert and repeal:** Examine existing occupational license requirements for opportunities to **reduce** qualifications for licensure such as the hours of training and "continuing education" required to obtain and retain certain licenses; **convert** license requirements to a less restrictive form of regulations such as inspections, bonding or voluntary certification; or **repeal** regulatory requirements.

Facts

- In the 1950s, about one in 20 U.S. workers needed the government's permission to pursue their chosen occupation. Today, that figure stands at about one in four.¹
- Research to date – on occupations as diverse as school teachers, interior designers, mortgage brokers, dentists, physicians and others – provides little evidence that government licenses protect public health and safety or improve the quality of products or services.²
- A greater body of research indicates that occupational licenses increase consumer costs³ and reduce opportunities for workers,⁴ particularly minorities, those with less education and older workers who may want to switch careers.⁵
- In Georgia, the Secretary of State administers licensing for over 40 occupations. This office licenses 10% of Georgia's workforce, and 489,000 Georgians are directly impacted by occupational licensing each year.⁶
- Four occupations account for 71% of all licenses issued by the Secretary of State: nursing, cosmetology, engineering and general contracting.⁷
- A nationwide study⁸ of license requirements found that Georgia licenses only 41 out of 102 lower-income occupations, but it imposes the 14th most burdensome requirements on workers wishing to enter those occupations. Georgia ranked as the 34th most extensively and onerously licensed state.
- Georgia licenses some occupations more onerously than many other states do. Pipelayer contractors, for example, must demonstrate 1,097 days of education and experience (comprising 12 hours of education and three years of experience). That is twice the average (546 days) required across licensed states. Just 26 other states deem pipelayer licensure necessary. Georgia licenses other occupations that are rarely licensed by other states, such as non-instructional teacher assistants (just four other states) and opticians (21 others).⁹

¹ "License To Work, 2nd Edition." Institute for Justice, November, 2017, <https://ij.org/report/license-work-2/>

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ <https://georgiansfirst.georgia.gov/document/document/meeting-minutes-september-27-2019/download>

⁷ *Ibid.*

⁸ "License To Work, 2nd Edition" Institute for Justice, November, 2017, <https://ij.org/report/license-work-2/>

⁹ *Ibid.*

- Georgia also imposes burdens on some occupations that seem excessive compared to those for other occupations that may present greater risks to the public. For example, the education requirements for personal care occupations can be up to 13 times higher than those for EMTs: Cosmetologists and barbers must complete 1,500 hours (about 350 days) of education, and skin care specialists 1,000 hours (about 233 days). EMTs must complete only 110 hours (about 26 days).¹⁰

Overview

As millions of Americans struggle to find productive work, one of the quickest ways legislators could help would be to reduce or remove needless licensure burdens.

An “occupational license” is, put simply, government permission to work in a particular field. To earn the license, an aspiring worker must clear various hurdles, such as earning a certain amount of education or training or passing an exam.

Occupational licensing laws can pose substantial barriers for those seeking work, particularly those most likely to aspire to these occupations – minorities, those of lesser means and those with less education. Moreover, since many currently licensed occupations offer the possibility of entrepreneurship, these laws hinder both job attainment and creation.

Occupational licensing is one of the biggest issues in labor economics today. According to the Bureau of Labor Statistics, occupational licensing directly impacts nearly 24% of workers.¹¹ That represents six times the 4% rate of licensed workers in the 1950s. It also dwarfs today’s rates of unionism at 11% of workers and minimum-wage earners at 3% of all hourly-paid workers.

But licensing is more than big. It presents some significant public policy issues. Licensing creates barriers to entry into occupations. In doing so, it shrinks the available number of jobs, lowers competition and increases prices to consumers by \$203 billion nationwide.¹² Unfortunately, these costs are not offset by additional consumer protection because licensing is generally an ineffective screen for frauds and incompetents.

More than 200 years ago, Adam Smith observed that trades conspire to reduce the availability of skilled craftsmen in order to raise wages, and modern public choice theory and social science research demonstrate little has changed since then.¹³

Occupational licensing is one of the biggest issues in labor economics today. According to the Bureau of Labor Statistics, occupational licensing directly impacts nearly 24% of workers.

Occupational practitioners, often through professional associations, use the power of concentrated interests to lobby state legislators for protection from competition through licensing laws. (The power of concentrated interests occurs when benefits of a particular policy are concentrated among a relatively limited number of entities while the costs are dispersed among a larger group of consumers or taxpayers.) Such anti-competitive motives are typically masked by appeals to protecting public health and safety, no matter how factually absurd.

In response to the COVID-19 pandemic, Georgia Gov. Brian Kemp issued a series of executive orders to

¹⁰ *Ibid.*

¹¹ <https://www.bls.gov/opub/mlr/2019/article/professional-certifications-and-occupational-licenses.htm>

¹² *Ibid.*

¹³ *Ibid.*

reduce licensing regulations and increase the number of healthcare providers in Georgia. Temporary licenses to practice in Georgia were granted to doctors, nurses and pharmacists in good standing from other states. Telemedicine licenses were expedited for out-of-state physicians. To further augment the workforce, recently graduated nurses were granted temporary licensure as they awaited the results of their licensing exam. These measures should be made permanent to help ease the shortage of healthcare providers in rural areas.

There are also alternatives to licensure. Voluntary certification through professional associations can benefit practitioners by enabling them to distinguish themselves, while consumers remain free to choose among all providers and decide for themselves how much value to place on such credentials.

An example is ASE certification for auto mechanics through the National Institute for Automotive Service Excellence. About 350,000 mechanics hold ASE certification, a credential widely recognized and valued in the industry. ASE-certified professionals usually wear ASE insignia and carry credentials listing their exact areas of expertise, while employers display their technicians' credentials in customer waiting areas.¹⁴

There are also third-party consumer organizations, such as the Better Business Bureau, and more contemporary crowd-sourcing versions built on new information and communication technologies, such as Angie's List, Yelp and Trip Advisor, that enable consumers to hold occupational practitioners and businesses accountable for the quality of their goods and services. In addition, government consumer affairs divisions, including Georgia's Consumer Protection Division, provide aggrieved parties an option with even greater authority.¹⁵

Lawmakers should not view licensing as the first option, but rather the last resort after less restrictive options have been tried.

The Institute for Justice's John Kramer outlined "Seven Alternatives to Government Licensure" at the Georgia Legislative Policy Forum. His presentation is available on our website.¹⁶ The recommendations, from least to most restrictive, are:

- Market Competition (no regulation)
- Private Civil Action
- Inspections
- Bonding or Insurance
- Registration
- Voluntary Certification
- Licensure

Reducing the breadth and burden of occupational licensure could help states realize significant economic benefits by freeing job-seekers to enter new occupations and enabling entrepreneurs to create new enterprises. When Mississippi replaced its cosmetology-license requirement for African-style hair braiding in 2005 with a modest registration requirement, 300 new braiders registered with the state.¹⁷ Some of those 300 moved to Mississippi from neighboring states where braiding is still onerously licensed, but others came out from the shadows of the informal economy and now formally contribute to the economic and social health of their communities. One neighboring state with stricter licensing for hair braiding is Louisiana, which requires 500 hours of training prior to receiving a license. As of 2012, Mississippi had over 1,200 hair braiders legally allowed to serve citizens, while Louisiana, with a significantly larger black

¹⁴ <http://www.ase.com/About-ASE.aspx>

¹⁵ <http://consumer.georgia.gov/>

¹⁶ <http://www.youtube.com/watch?v=7kO2LATwFAA>

¹⁷ Carpenter, D.M. (2011), The power of one entrepreneur: A case study of the effects of entrepreneurship. *Southern Journal of Entrepreneurship*, 4(1), 19-35.

population than Mississippi, only had 32 legally registered hair braiders.¹⁸

In addition, given the high rate of correctional supervision in Georgia, reducing onerous licensure requirements can also improve opportunities for those with criminal records who have paid their debt to society and wish to return to society as productive citizens.¹⁹

Policy-makers should start with a few simple questions:

- Is an occupation unlicensed in other states?
- Are the licensure burdens for an occupation high compared to other states?
- Are the licensure burdens for an occupation high compared to other occupations with greater safety risks?

If the answer to any is yes, it points to a licensing scheme that may be unnecessary or needlessly burdensome and that may not be justified by legitimate health and safety concerns.

That an occupation is unlicensed elsewhere suggests that the purported health and safety risk is not truly present – or that other mechanisms such as market forces, private certification, third-party endorsers or less intrusive regulation can work instead. When an occupation has lower licensure hurdles in other states, or compared to similarly risky occupations, it suggests that licensure burdens can be eased without compromising public safety.

When reviewing current or proposed licensing laws, policy-makers should demand proof that there is a clear, likely and well-established danger to the public from unlicensed practice. If they decide to license an occupation, they should carefully determine how much of the burden placed on applicants is truly needed to ensure public health and safety. Mandating unnecessary classes, lengthy apprenticeships, irrelevant exams or other needless hurdles does nothing to ensure the public's safety. It simply protects those already in the field from competition by keeping out newcomers. Finally, policy-makers should always consider whether less restrictive options – including simply letting consumers decide for themselves – can keep the public safe while creating new opportunities for workers.²⁰

Finding a job or creating new jobs should not require a permission slip from the government. As millions of Americans struggle to find productive work as a result of the coronavirus pandemic, one of the quickest ways legislators can help is to simply get out of the way: Reduce or remove burdensome regulations that force job-seekers and would-be entrepreneurs to spend precious time and money obtaining a license instead of working.

The Georgia Public Policy Foundation is grateful to the Institute for Justice for its contribution to the Occupational Licensing Chapter of the Guide to the Issues.

About the [Georgia Public Policy Foundation](#). Established in 1991, the Foundation is a trusted, independent resource for voters and elected officials. The Foundation provides actionable solutions to real-life problems by bringing people together. Nothing written here is to be construed as necessarily reflecting the views of the Georgia Public Policy Foundation or as an attempt to aid or hinder the passage of any bill before the U.S. Congress or the Georgia Legislature.

© Georgia Public Policy Foundation (September 28, 2020).

¹⁸ “License To Work, 2nd Edition” Institute for Justice, November, 2017, <https://ij.org/report/license-work-2/>

¹⁹ <https://www.ncsl.org/research/labor-and-employment/barriers-to-work-individuals-with-criminal-records.aspx>

²⁰ For model legislation that would codify similar standards for the establishment of new licensing regimes and create a statutory right to an occupation, see <http://www.ij.org/legislation/>