



239.244.8808
15275 Collier Blvd.
Suite 201-279
Naples, FL 34119

OCCUPATIONAL LICENSING BOARD LOBBYING BAN

The Problem: Over the last half-century, occupational licensing has grown dramatically in both scope and scale. Today, nearly one in three Americans needs the government's permission to work.ⁱ This trend is not due to dramatically improved safety and quality standards, but is due to interest groups increasingly using government policy to limit competition in their industries. Associations of music therapists, interior designers, tour guides, massage therapists, and more have lobbied to impose unnecessary licensing schemes on their future competitors.

Once these regulations are in place, government agencies often contract with professional lobbyists to convince lawmakers to enact more costly education and training requirements. These lobbyists and the government boards that they represent argue that licensing requirements are meant to protect the public. However, studies show that in most instances, occupational licensing has no positive effect on public safety.ⁱⁱ If creating a license to work in a specific occupation is truly necessary to protect public safety, then that occupation should be licensed across the nation. Given the wide variety of licensing practices across states, this is not the case.

Though about 1,100 occupations are licensed by at least one state, only 60 are licensed in every state.ⁱⁱⁱ Most of these 1,100 occupations are licensed in fewer than 30 states, and many are licensed in fewer than ten states. Consider Alabama, which is one of the only seven states that license tree trimming.^{iv} Or Connecticut, which is the only state that licenses home entertainment installers.

Licensing burdens across occupations do not align with the respective threats posed by these occupations. If proponents of licensing are right, positions that have a high potential for fraud or bodily harm—such as administering healthcare, handling large sums of money, and working with vulnerable parties—should be the most strictly licensed. But this is not the case.

The average time it takes to become a government-approved interior designer is six years.^v Meanwhile, the average training time for Emergency Medical Technicians—an occupation that requires people to be directly responsible for the lives of others—is only 33 days. This indefensible divergence arises because government licensing boards focus on protecting entrenched interest groups instead of the public.

In 2015, the U.S. Supreme Court found that, without proper state supervision, licensing boards can become unaccountable, self-serving organizations that protect themselves from competition rather than protecting consumers.^{vi} The Justices noted that when legislatures hold hearings on licensure practices, they are flooded with lobbyists who give the false impression that additional occupational regulations will only enhance public safety without imposing costs on aspiring workers. But usually, the opposite is true.

In Louisiana, the only state that licenses florists, established florists and the state licensing board have such a prominent level of government influence that the pass rate on the Louisiana florist exam is half that of the Louisiana bar exam.^{vii} Given that the established florists are the ones who judge the exam, this fact should come as no surprise.

The large-scale expansion of occupational licensing has created an incentive for special interests to use government to erect further barriers to work. A vicious cycle exists in which the more lawmakers expand licensing, the larger the incentive to turn to government for protection from competition becomes.^{viii}

How to Fix It: If government licensing boards remain free to use the political process to limit competition, then barriers to work will likely continue to grow. To address this problem, Freedom to Work creates a legislative ban on licensing boards contracting with outside lobbyists.

There are at least ten states—including Alaska, Florida, and Illinois—that prohibit at least some state agencies from using public funds to retain lobbyists.^{ix} In 2003, South Carolina’s governor issued an executive order prohibiting the state’s licensing and regulation department from contracting with lobbyists, and in 2016, Arizona Governor Doug Ducey issued an executive order that banned Arizona licensing boards from hiring contract lobbyists.^x

Given technological advances and the proliferation of peer-to-peer communications, occupational licensing practices are not only ineffective—they are outdated. Many of the public needs that occupational licensing was designed to serve no longer exist.

In the 1950s, consumers had difficulty accessing information about the quality and qualifications of various service providers. Today, this dynamic has completely changed. With the rise of the internet, information is simply a click away. Consumers have little need for licensing agencies in many sectors of the economy when Google Reviews, Yelp!, and various social media platforms allow them to access information quickly and make informed decisions about price, quality, and level of service.^{xi}

Still, occupational licensing has expanded. States need to follow the examples set by Arizona and South Carolina and ban licensing boards from contracting with outside lobbyists to reverse this trend. There is no reason for taxpayer money to be used in ways that protect special interests, raise costs for consumers, and make it harder for Americans to work.

ⁱ Brad Hershbein, David Bobby, and Melissa Kearney, *Nearly 30 Percent of Workers in the U.S. Need a License to Perform Their Job: It Is Time to Examine Occupational Licensing Practices*, The Brookings Institution (2015).

ⁱⁱ Grace Knofczynski, *“Do Occupational Licenses Keep Consumers Safer?”* The Program on Regulation at the University of Pennsylvania Law School (2015).

ⁱⁱⁱ *“State Based Initiatives: Selected Examples,”* Federal Trade Commission (2017).

^{iv} Dick Carpenter II, Lisa Knepper, Angela C. Erickson, and John K. Ross, *“License to Work: A National Study of Burdens from Occupational Licensing,”* Institute for Justice (2012).

^v Dick Carpenter II, Lisa Knepper, Angela C. Erickson, and John K. Ross, *“License to Work: A National Study of Burdens from Occupational Licensing,”* Institute for Justice (2012).

^{vi} *“North Carolina State Board of Dental Examiners v. Federal Trade Commission,”* Supreme Court of the United States (2015).

^{vii} Dick Carpenter II, *“Blooming Nonsense: Experiment Reveals Louisiana’s Florist Licensing Scheme as Pointless and Anti-Competitive,”* The Institute for Justice (2010).

^{viii} Maury Gittleman, Morris Kleiner, and Mark A. Klee, *“Analyzing the Labor Market Outcomes of Occupational Licensing,”* Minneapolis Federal Reserve (2014).

^{ix} *“Limitations on Public Funds for Lobbying,”* National Conference of State Legislatures (2015).

^x Doug Ducey, *“Executive Order 2016-05 State Governmental Units; Professional Lobbyist Contracts; Prohibition,”* State of Arizona (2016).

^{xi} Adam Thierer et al., *“How the Internet, the Sharing Economy, and Reputational Feedback Mechanisms Solve the ‘Lemons Problem,’* Mercatus Center at George Mason University (2015).