
LOCAL OCCUPATIONAL LICENSING PREEMPTION

The Problem: Occupational licensing is the requirement that workers must obtain government permission to work in certain professions. Most often, approval for a license entails completing an approved educational program, passing an exam, and paying a fee. Licensing has not always played such a significant role in the American labor market. In the 1950s, fewer than five percent of U.S. workers were required to have a state-issued license to work.ⁱ Today, however, this number has risen to nearly 30 percent.ⁱⁱ

Though most occupational licensing is on the state level, many cities abuse their regulatory authority and impose substantial costs to working in certain occupations.

If licensing is truly necessary to protect public safety, then it should be done at the state level. Detroit licenses about 60 occupations—including window washers and sidewalk shovelers.ⁱⁱⁱ Most of these occupations are not licensed by the state of Michigan or other large cities in the state like Grand Rapids, Lansing, and Ann Arbor. If the rest of a state can maintain public safety, consumer protections, and fair competition without licensing an occupation, then there likely is no reason for just one city to do so.

There is growing consensus that state-level occupational licensing harms economic growth.^{iv} Similarly, local occupational licenses can have negative effects on consumer choice, residential mobility, and work opportunities—especially when they vary across a single state.^v

An example of this is Detroit's licensing requirements for plumbers. Though Michigan already licenses plumbers, Detroit makes these workers go through additional regulatory hurdles to practice their trade in the city. These hurdles include going through the annual license registration process, completing city paperwork every time they take a job, and paying high fees based on what they fix.^{vi} With this much red tape, it is little wonder that there are only 58 licensed plumbers in the entire city.^{vii}

Local licensing is a problem across the country. In Florida, each year it costs \$447 to be a vehicle mechanic in Palm Beach, \$236 to work as an interior decorator in Miami, and \$157 to be a florist in Ft. Lauderdale.^{viii} In Kansas City, Missouri, photographers must pay \$300 a year, while across the state in St. Louis, outhouse cleaners must pay \$100 a year to work.^{ix}

These annual costs are out of line with the dangers that these occupations pose to the public, and they create substantial barriers to work. In 2017, to lessen the burdens posed by these barriers, Indiana exempted workers from households with incomes below 130 percent of the federal poverty line from paying local licensing fees.^x

How to Fix It: With states like Arizona, Mississippi, Tennessee, and Wisconsin passing comprehensive state occupational licensing reforms, it makes sense for policymakers to ensure that their work will not be undone if licensing proponents turn their attention to expanding regulations at the local level. This foresight is why Tennessee passed a local licensing preemption during the 2017 legislative session.^{xi}

Tennessee’s bill was similar to a local licensing preemption bill that passed the year before in Wisconsin, where local governments required licenses for occupations including Christmas tree sellers, photographers, and secondhand dealers.^{xii} If this reform had been passed a decade ago, it is estimated that 100 fewer occupations across the state would require a local license.^{xiii}

America’s Founding Fathers understood that local control rests ultimately with the individual, so true localism is about protecting workers and their families. If cities are abusing their authority and harming state residents, states have the right and the ability to overrule municipal governments. This applies regardless of if a state is a “Home Rule” or a “Dillon Rule” state because all municipalities in the United States gain their legislative power from delegation by state governments.^{xiv}

On many issues, statewide preemption of local policies is common, especially when local governments make it harder for state residents to earn a living. There are currently 25 states that ban local minimum wage increases, and 42 states stop local governments from applying antiquated regulations to force out transportation services such as Uber and Lyft.^{xv} States have a strong interest in helping job creators and job seekers prosper. After all, if a city’s prohibitions on work trap state residents in welfare, then it is the state budget that ends up paying for the local government’s decision.

There are many steps to comprehensive occupational licensing reform. However, no reform is complete if it does not stop local governments from creating new local licensing requirements, eliminate local licenses for occupations that are already regulated on the state level, and limit the fees that local governments can charge for existing licenses.

ⁱ Morris M. Kleiner, “Reforming Occupational Licensing Policies,” The Brookings Institution (2015).

ⁱⁱ Brad Hershbein, David Boddy, and Melissa S. Kearney, “Nearly 30% 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).

ⁱⁱⁱ Jarett Skorup, “This Isn’t Working: How Michigan’s Licensing Laws Hurt Workers and Consumers,” The Mackinac Center (2017).

^{iv} “Occupational Licensing: A Framework for Policymakers,” The White House (2015).

^v Janna E. Johnson and Morris M. Kleiner, “Is Occupational Licensing a Barrier to Interstate Migration?” NBER Working Paper No. 24107 (2017).

^{vi} “City of Detroit Plumbing Fee Schedule,” City of Detroit (2013).

^{vii} Jarrett Skorup, “To Boost Jobs in Detroit, Cut Regulations,” Detroit Free Press (2017).

^{viii} Palm Beach, Florida Code of Ordinances § 114-31 (2006), Miami, Florida Code of Ordinances § 31-50 (2012), Fort Lauderdale, Florida Code of Ordinances § 15-57 (2011).

^{ix} Kansas City, Missouri Code of Ordinances § 40-134 (1975), St. Louis, Missouri Code of Ordinances § 8.108.010 (1960).

^x H.B. 1394, Indiana General Assembly (2017).

^{xi} H.B. 0979, Tennessee General Assembly (2017).

^{xii} S.B. 81, Wisconsin Legislature (2015).

^{xiii} Jared Meyer, “Photographers Should Never Need Government’s Permission to Work,” Forbes (2016).

^{xiv} Jon Russell, “Federalism, Dillon Rule and Home Rule,” American Legislative Exchange Council (2016).

^{xv} “Protecting Innovation in Your State,” Foundation for Government Accountability (2017).