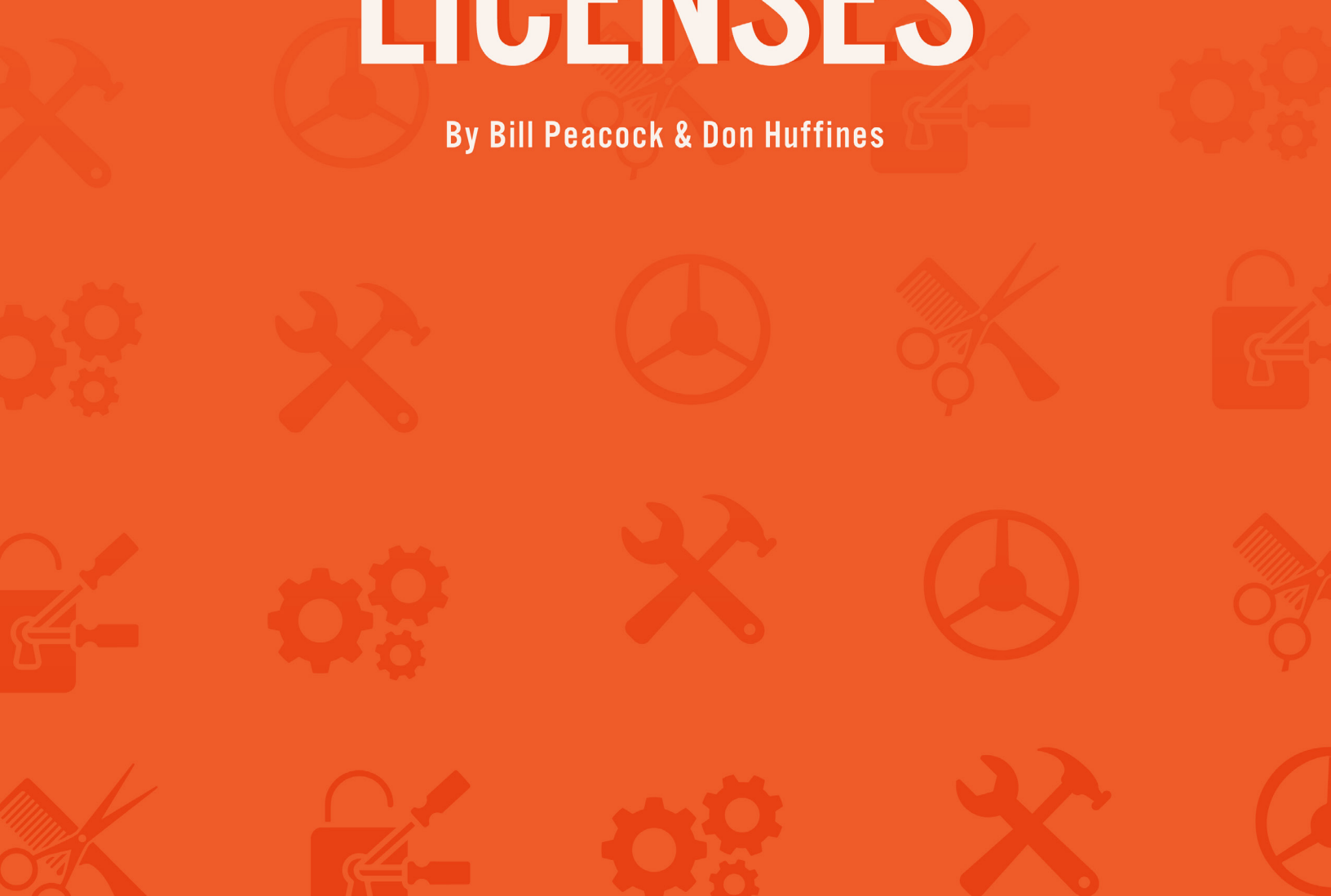


Huffines Liberty Foundation

# ABOLISH OCCUPATIONAL LICENSES

By Bill Peacock & Don Huffines



# About the President



## *Don Huffines*

Former Texas State Senator Donald B. Huffines is a strong Christian, proud fifth-generation Texan, husband, father, grandfather, and self-made businessman.

Don Huffines fought fearlessly for fiscal restraint and government accountability in the Texas State Senate while representing Dallas County.

During his time in the Senate, Senator Huffines served as the Vice-Chairman of the Border Security Committee. Huffines also earned a reputation as one of Texas's most conservative lawmakers.

Don Huffines now serves as President of the Huffines Liberty Foundation and leads the Texas First movement by promoting the values we all cherish that make Texas great.

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## Executive Summary

Occupational licensing in Texas has largely become an exercise in economic protectionism for those engaged in occupations. This approach developed in the Roman Empire and became established in Western culture during the Medieval Period. Rather than the ancient approach, which focused on consumer safety, protection of property, and restitution, occupational licensing today primarily focuses on increasing the wages of those in regulated occupations. This shift has resulted in higher consumer costs, reduced competition and job creation, and reduced dynamism in the Texas economy.

An example of this is the case of Ron Hines, a Texas veterinarian who dispenses advice to pet owners online because his veterinary practice is limited because of a disability. In 2012, the Texas State Board of Veterinary Medical Examiners attempted to close his online advice service even though there were no allegations of harm to animals. Instead, the damage appears to have been the competition he represented to other veterinarians. His case is still pending before the courts more than a decade later.

In a review of 38 occupational groups licensed or otherwise regulated by the Texas Department of Licensing and Regulation (TDLR), the Huffines Liberty Foundation found that consumers, workers, and the Texas economy would be better off if 28 were deregulated. Health, safety, and economic concerns associated with these occupations would be better addressed by informed consumers using voluntary market measures and existing laws outside of occupational codes.

Reducing occupational licensing is about more than economics, though; it is also about liberty. Consider Shelley Luther and her employees, whose licenses were threatened by Texas Gov. Greg Abbott when she reopened her salon during the COVID shutdown. Or the 17 restaurants and bars whose licenses were suspended in June 2020 for operating above government-imposed capacity limits.

The Texas Legislature should eliminate the licenses for the 28 occupations identified in this study. And consider doing the same for the many other regulated occupations in Texas besides those at TDLR, such as teachers, plumbers, electricians, real estate agents and brokers, liquor store operators, and auto dealers.

## Occupational Licensing in Texas

Ron Hines is a Texas veterinarian who dispenses advice to pet owners online. The Texas State Board of Veterinary Medical Examiners, however, says he is a criminal. Because of an accident in 1973, Dr. Hines retired from his veterinary practice and, from 2002 to 2012, helped pet owners online. But then the Veterinary Board “shut Ron down, suspended his license, and fined him” ([Institute for Justice](#)). His crime? He advised pet owners about caring for their animals without seeing the animal in person. There were no allegations that Hines caused harm to any of the animals. He simply ran afoul of a Texas regulation designed to protect veterinarians from competition.

With the help of the Institute of Justice, Dr. Hines filed suit against Texas and the Veterinary Board. His case was twice dismissed. Then, in 2020, “the 5th U.S. Circuit Court of Appeals recognized that restricting the online pet advice of Brownsville, Texas, veterinarian Dr. Ron Hines implicated his First Amendment rights, reversing a lower court ruling that occupational speech is not protected by the First Amendment” ([Beck](#)). That decision simply sent his case down to a lower court for reconsideration, which is still pending. The Institute for Justice expects a ruling on the case to come soon, approximately a decade after the case was initially filed. In the

meantime, Dr. Hines’ license has been restored, allowing him to practice. He also continues to offer online advice to pet owners worldwide, although still in defiance of the Veterinary Board’s edict.

Protectionism is also evident in the case of food truck regulation by the City of South Padre Island. Anubis and Adonai Avalos want to operate their food truck, Chile de Árbol, on South Padre Island. They cannot, however, because the city capped the number of food truck permits at 12 and required that all new “food trucks have a [local] restaurant owner’s sign off on their permit applications” ([Institute for Justice](#)). Similarly, a family that operates a free surfing school and learning gardens on South Padre Island under the name SurfVive attempted to open a food truck to support their work. After first being told there were no permits, when a permit finally became available, their application was denied because “no restaurant owner had signed off on their permit application” ([Institute for Justice](#)). Protecting island restaurants is the clear purpose of the city’s restrictions on those who would like to operate food trucks as an occupation. There is no public health rationale for the ordinance restricting food trucks. And certainly, consumers do not benefit from reduced access to prepared food on the island.

The Institute of Justice identified 102 lower-income occupations across all 50 states and the District of Columbia

and ranked the states on the burdens they place on these occupations. Texas ranked 18th worst for the burdens it placed on 38 of these occupations. However, because Texas licensed fewer of these occupations than most states, the state ranks only 41st worst in the country. As Figure 1 shows, however, there are still far too many restricted occupations in Texas.

The Texas Department of Licensing and Regulation licenses and regulates many

occupations in Texas. But numerous other entities regulate occupations as well. In addition to the previously mentioned State Board of Veterinary Medical Examiners, these include the Texas Department of Agriculture, the State Bar of Texas, Texas Medical Board, Texas State Board of Public Accountancy, Texas Alcoholic Beverage Commission, Texas Appraiser Licensing and Certification Board, Texas Department of Banking, Texas Board of Professional Geoscientists, Texas State Board of Plumbing

**Figure 1: Restrictions on Selected Lower-Income Occupations in Texas**

Source: Institute For Justice

Burden Rank <small>(Change from 2017)</small>	Occupation	States Licensed	Fees	Estimated Calendar Days Lost	Education	Experience	Exams	Min. Grade	Min. Age
1 — (0)	Preschool Teacher, Public School	50	\$377	1460	4 years	None	2	0	18
2 — (0)	HVAC Contractor (Commercial)	37	\$209	1460	None	4 years	1	0	18
2 — (0)	Sheet Metal Contractor, HVAC (Commercial)	37	\$209	1460	None	4 years	1	0	18
4 — (0)	HVAC Contractor (Residential)	35	\$195	1460	None	4 years	1	0	18
4 — (0)	Sheet Metal Contractor, HVAC (Residential)	36	\$195	1460	None	4 years	1	0	18
6 — (0)	Athletic Trainer	49	\$584	1460	4 years	None	2	0	0
7 ▲ (2)	Midwife, Direct Entry	37	\$1,420	730	2 years	None	2	12	0
8 ▼ (-1)	Security Alarm Installer	37	\$478	730	None	2 years	1	0	18
9 ▼ (-1)	Earth Driller, Water Well	51	\$267	730	None	2 years	1	0	0
10 ▲ (1)	Pest Control Applicator	51	\$742	379	28 clock hours	40 clock hours and 1 year	3	0	0
11 ▼ (-1)	Cosmetologist	51	\$172	233	1000 contact hours	None	2	12	17
12 ▲ (1)	Skin Care Specialist	51	\$172	175	750 clock hours	None	2	12	17
13 ▲ (1)	Manicurist	51	\$172	140	600 clock hours	None	2	12	17
14 ▼ (-2)	Barber	51	\$50	233	1000 clock hours	None	2	0	16
15 ▲ (8)	Pharmacy Technician	44	\$212	117	500 clock hours	None	1	12	0
16 — (0)	Emergency Medical Technician	51	\$162	35	150 clock hours	None	3	12	18
17 ▼ (-2)	Massage Therapist	45	\$295	117	500 clock hours	None	2	0	18
18 ▼ (-1)	Shampooer	33	\$172	70	300 clock hours	None	2	7	16
19 ▼ (-1)	Auctioneer	28	\$152	19	80 clock hours	None	1	12	18
20 ▼ (-1)	School Bus Driver	51	\$144	3	20 clock hours	None	7	0	18
21 ▼ (-1)	Child Care Home, Family	44	\$112	7	32 clock hours	None	0	12	21
22 — (0)	Bus Driver, City/Transit	51	\$133	0	None	None	6	0	18
23 ▼ (-2)	Truck Driver, Tractor-Trailer	51	\$122	0	None	None	6	0	18
24 — (0)	Truck Driver, Other	51	\$122	0	None	None	5	0	18
25 — (0)	Fire Alarm Installer	39	\$708	0	None	None	2	0	0
26 — (N)	Animal Breeder	29	\$400	0	None	None	0	0	18
27 ▼ (-1)	Vegetation Pesticide Applicator	51	\$392	0	None	None	3	0	0
28 — (0)	Security Guard, Unarmed	34	\$62	1	6 clock hours	None	1	0	18
29 ▼ (-2)	Mobile Home Installer	37	\$590	2	12 clock hours	None	1	0	0
30 ▼ (-1)	Locksmith	12	\$58	0	None	None	0	0	18
31 ▼ (-1)	Weigher	24	\$500	0	None	None	0	0	0
32 ▼ (-1)	Animal Control Officer	7	\$75	2	12 clock hours	None	2	0	0
33 ▼ (-1)	Milk Sampler	43	\$0	0	None	None	2	0	0
34 ▼ (-1)	Travel Guide	37	\$132	0	None	None	0	0	0
35 ▼ (-1)	Landscape Contractor (Commercial)	47	\$75	0	None	None	0	0	0
35 ▼ (-1)	Landscape Contractor (Residential)	48	\$75	0	None	None	0	0	0
37 — (0)	Coach, Head (High School Sports)	47	\$35	2	13 clock hours	None	0	0	0
38 ▼ (-2)	Fisher, Commercial	43	\$54	0	None	None	0	0	0

Examiners, and the Texas Real Estate Commission.

## The Development of Occupational Licensing

To improve our understanding of the problems with Texas' occupational licensing regime, it is worth exploring the development of occupational licensing. Laws related to occupations have a long history. For instance, Leviticus 22:5 requires that shepherd's who by neglect cause harm to fields or vineyards "make restitution from the best in his own field and in his own vineyard." Also, suppose a moneylender lends money to the poor. In that case, he "shall not exact interest from him" (Leviticus 22:25). And a homebuilder is required to "make a parapet for your roof, that you may not bring the guilt of blood upon your house, if anyone should fall from it" (Deuteronomy 22:8).

These laws of ancient Israel, dating back more than 3,000 years, addressed the conduct and practices of those occupations with an eye toward customers' safety and the economic protection of their property. They did this, though, not by regulating activities or limiting those who can legally engage in particular activities or occupations. Instead, they focused on setting standards, providing for restitution, and creating a "cause of action" that allowed wronged parties to seek redress in civil courts.

Over a millennium later, collegia—what

we would call guilds today—had become an integral part of the Roman economy throughout Europe. The collegia were initially private initiatives, with members having either occupational, religious, or social connections. After being banned for being disruptive and harmful to state interests but then restored, the collegia became Rome's partners in controlling the populations of the empire and, especially for those related to occupations, regulating the economy ([Collegium](#)).

**Figure 2: A List of Roman Collegium Members**



[Source: Roman Ports](#)

Like the Bible, a collegium addressed the conduct and practice of its occupation. Unlike the Bible, it also regulated who could practice its trade. It was allowed to do this as long as its rules aligned with Roman law. The amount of influence of collegia on the Roman economy can be seen in the number of

individual collegia within the shipping industry alone: shipbuilders, caulkers, ropemakers, grain measurers, dock-hands carrying grain bags, dock-hands carrying amphorae, dock-hands carrying sand for the ballast of a ship, warehouse guards, stevedores, and divers rescuing cargo lost overboard ([Collegium](#)).

The connection between the Roman government and collegia was intense, “in particular for those associations in which the State had a special interest, as for example in everything involved with the food supply (navicularii, mensores frumentarii, pistores, etc.) or with the associations who were in charge of extinguishing fires. Each collegium had to be approved by the Senate or by the emperor himself” ([Collegium](#)).

The benefits of this arrangement to the government and collegia were mutual. Rome exercised significant control over society and the economy, while collegia maintained monopolies over trades and received higher wages and profits. Though attention to craft and quality were generally a significant part of the collegia, it is clear that by this time, much of the focus of occupational law had shifted away from the biblical approach of quality, customer safety, and restitution to benefitting the government and the trades.

The foundation of modern occupational licensing was thus firmly in place 2,000

years ago, but its development continued into the Middle Ages. Guilds grew in their control of trades, prices, and wages. The theology of Thomas Aquinas led to the development of the mistaken but influential just price theory. Guilds became the arbiters of determining the just price of goods and services (wages) ([Flynn](#), 15). While members of guilds themselves did very well under this system, the customers of guilds often paid high prices, while common laborers working for guilds often worked for low wages. John Flynn further explains the harm caused by the partnerships between governments and guilds: “Everything was formalized. Trade itself was caught in hard and fast jurisdictional ruts. In Frankfurt there were 191 crafts—eighteen in the iron industry alone. And as regulation begets regulation, the feudal town became enmeshed in a tangle of rules and formulas and ordinances and red tape that utterly constricted the economic system” (16).

This description of the harmful effects of guilds on fifteenth-century Europe would apply quite well to many of the problems caused by occupational licensing today in Texas. And it also provides insight into the fact that most occupational licensing today is driven by those who are already engaged in the occupation and want to increase their own wages and profits by eliminating competition from new entrants.

## Should Occupations Be Licensed?

In its 2020-21 report on the Texas Department of Licensing and Regulation, the Texas Sunset Commission [asked four questions](#) (17) seeking to determine whether all of the occupations licensed by TDLR should continue to be so. Those questions have been adapted for this paper and will be used to further develop a rationale for occupational licensing in Texas.

*Could the objective of an occupational license be achieved through market forces, private certification and accreditation programs, or enforcement of other laws?*

While all four questions developed by the Sunset Commission deserve consideration, this is by far the most important one. Because if the answer to this one is yes, then the other questions are moot. To answer this question, though, we must first determine what the objective(s) of occupational licensing is (are).

To determine this, we will start by examining the purpose of civil government. America's founding document, the Declaration of Independence, explains this to us:

[We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.—That to secure these rights, Governments](#)

[are instituted among Men...](#)

Civil government's purpose, then, is to secure our rights. This would include our right to work. Unlike modern views of positive rights, this does not mean the government must provide us with a job or a living wage. Instead, the government must protect us from those attempting to stop us from working, including the government itself. Thus, any effort by the government to bar entry into an occupation must be immediately suspected as being contrary to the government's mandate to secure our right to work.

The Texas Comptroller's Office suggests that "Licensing is intended to protect consumers from poor or unethical service. Earning a license requires workers to demonstrate the ability to practice their chosen occupations safely and ethically" ([Fiscal Notes](#)). But this confuses the differences between poor quality work, unsafe work, and unethical work. Certainly, the possibility of hazardous work might serve as a rationale for regulating occupations, but occupational licensing schemes focused on poor quality and unethical service miss the mark.

For instance, the biblical approach to quality focused on whether a good or service caused harm to a consumer, not on whether the craft of the worker provided a product pleasing to the customer. This would mean that the state has no interest in licensing barbers to

ensure they can give a good haircut. The question is whether the barber can cut hair without, for instance, sticking his customer with scissors. And even in that case, the potential harm is generally so minimal that the customer’s safety barely comes into play. Neither does unethical work provide a rationale for occupational regulation. There are existing civil and criminal laws that can deal with, for instance, a barber defrauding his customers.

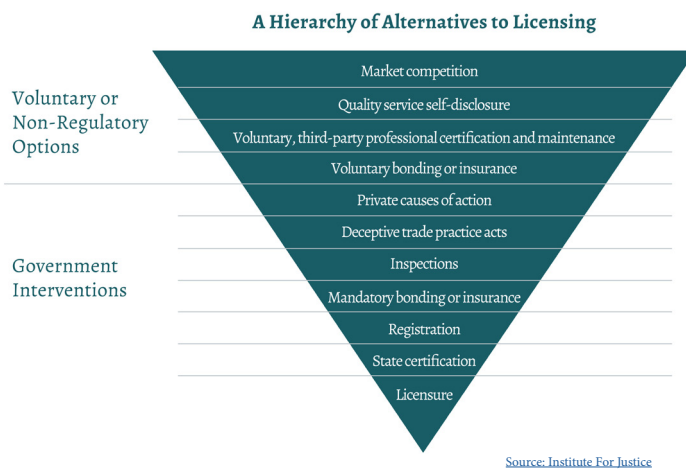
Of course, there are occupations where health and safety are of greater concern than with barbers and shampooers. That does not mean, however, that a license is needed for these occupations. Figure 3 shows numerous alternatives to occupational licensing and to any government regulation of occupations. The inverted pyramid tracks with both the biblical and constitutional rationale of allowing the client-customer relationship to take precedence in dealing with difficulties, followed by an appeal to the civil or criminal justice system if needed.

The Institute for Justice explains the practical steps behind this approach:

Before imposing (or continuing to impose) any occupational regulation, policymakers should demand systematic, empirical evidence of harm and select the least restrictive and most appropriate option on the pyramid necessary to provide the desired consumer protections. As the Institute for Justice’s 2017 report [License to Work](#) (2nd

ed.) shows, many occupations are not licensed everywhere. This means that state policymakers can usually look to other states for evidence of harm (or lack thereof), as well as to see how licensing alternatives, both voluntary and regulatory, work in practice. ([Ross, 2](#))

**Figure 3: The Inverted Pyramid: A Hierarchy of Alternatives to Licensing**



Even with occupations where market devices like customer reviews on Yelp, Amazon, and other sites may not offer the best way to ensure health and safety concerns, voluntary third-party professional certification often can do a better job than licensing:

Non-government organizations offer certifications in hundreds of industries, including auto mechanics, tour guides and home improvement contractors.<sup>26</sup> Indeed, voluntary certification rather than licensure is the standard for many industries, including travel agents and financial planners.

For auto repair, an industry where voluntary certification rather than licensing prevails, Consumer Reports recommends that consumers look for a mechanic cer-



tified by the National Institute for Automotive Service Excellence (ASE). Finding one is not hard: Over 270,000 (out of an estimated 740,000 total mechanics in the U.S.—or approximately 36 percent) have voluntarily obtained an ASE certification. Another popular choice for certification is so-called factory training where mechanics get training either directly from or designed by automakers. ([Ross](#), 5)

While it may seem counterintuitive to some that voluntary certification can be superior to government licensing, the shift in focus from customers to occupational protectionism that happens when industries and occupations partner with the government explains why this can be the case. This was clearly in evidence when regulatory authorities discouraged the use of therapeutics for treating COVID:

The real tragedy in Texas and all over the world was the absolute or relative lack of early combination therapeutics at home in high risk COVID-19. Gkioulekas et al concluded that by December of 2020, we had clear and convincing evidence ( $P < 0.01$ ) that early treatment was effective in reducing hospitalization death, a claim that could never be made for COVID-19 vaccines. Verkerk et al demonstrated the vast majority of hospitalizations and deaths occurred as a result of little or no access to early combination therapy. Failure to treat resulting in avoidable death is always a tragedy ([McCullough](#))

This is not to say that medical doctors

and nurses should or should not be licensed. However, it is evidence that licensing and related government regulation can cost lives rather than save them. It thus suggests that alternative, private means of protecting the health and safety of the public can often be more effective than government regulation.

***Does an occupational license serve a meaningful public interest and provide the least restrictive form of regulation needed to protect the public interest?*** This paper has shown that restrictions on the ability of citizens to work in certain occupations are often grounded in economic protectionism. And that the primary public interest in restricting access to certain occupations is public health and safety. Yet even this rationale is usually blown out of proportion.

One example of this is interior design. Some states regulate interior design. Why? Well, according to the industry, it is a matter of life and death. As the Manhattan Institute reports, “Interior design ‘sounds like this simple hanging curtains on a wall... [but] it only takes a couple of things to go wrong for people to lose their lives.’ This warning came from Florida interior designer Michelle Early during a 2011 Florida House hearing. Early also cautioned that improper interior design leads to 88,000 deaths per year” ([Meyer](#)).

Licensing is usually not the least restric-

tive form of regulation to protect the public interest, including public health and safety. The overuse of licensing for economic protectionism means that licensing should always be used as a last resort and that all arguments in favor of licensing should be viewed through the lens of the economic benefits accrued by those making the arguments.

***Are the skill and training requirements for an occupational license consistent with a public interest that outweighs the impediment to applicants, particularly those with moderate or low incomes, from entering the occupation?***

In Texas, it takes 150 hours of training over an estimated 35 days to become an Emergency Medical Technician. Yet it takes 1,000 hours over an estimated 233 days to become a barber or cosmetologist. Clearly, something is upside down in this comparison. This barrier to entry for Texans seeking to become a barber or cosmetologist has no rationale in logic or reality. Yet the remedy here must be more than simply reducing the training it takes to become a barber or cosmetologist. It also involves examining all aspects of the public's interests.

As already discussed, public health and safety are one of the primary concerns of policymakers when considering the need to license occupations. Less often considered are the economic concerns of the public, which are twofold. First is the cost of desired services. Economists Morris Kleiner and Alan Krueger ([2009](#))

found that requiring a license is associated with a 15 percent increase in hourly wages for those professions. A July 2015 report published by the White House explains how those higher wages translate into increased costs for consumers:

While quality can be defined in many ways and is often difficult to measure, the evidence on licensing's effects on prices is unequivocal: many studies find that more restrictive licensing laws lead to higher prices for consumers. As before, we summarize the studies we've reviewed in the table below. In 9 of the 11 studies we reviewed, significantly higher prices accompanied stricter licensing. In addition to the studies listed below, Kleiner and Todd (2009) find that two particular mortgage broker licensing requirements, financial bonding and minimum net worth requirements, are associated with a higher percentage of high-priced loans originated and lower volumes of loans processed, but that overall indices of the tightness of mortgage broker licensing are not significantly associated with market outcomes. ([White House, 60](#))

Second, most customers of occupations providing services are not just consumers but also producers. They also have jobs. Or need jobs. Yet occupational licensing can not only reduce employment in the regulated occupations but in the economy generally:

Kleiner and Vortnikov (2018), for example, estimate that licensing results in the loss of almost 2 million jobs nationally. Blair and Chung (2019), as well as Kleiner and Soltas (2019), find that occupational licensing re-

duces employment in licensed professions by 27% and 29%, respectively. The economic cost of licensing on Americans has been estimated to range anywhere from \$34.8 billion to \$41.7 billion (Summers, 2007). This job loss is caused by extra barriers to entry from licensure requirements. The Commission to Study and Review Certain Penal Laws performed a review of the state, county, and municipal occupational licensing laws in Texas. It found that, in total, these laws cost the state more than 140,000 jobs and resulted in \$431.5 million in reduced output annually (Thompson, 2018).

Lower economic growth means lower wages for many citizens and higher taxes, as those with jobs must make up for declining government revenue from other sectors with lower employment.

***What is the impact of an occupational license on competition and consumer choice in the delivery of services?***

Occupational licensing increases consumer costs. Consumers pay higher prices because there are fewer providers of the goods and services they need. Many licensing advocates, though, claim the higher costs resulting from the higher quality of services and products resulting from licensing. However, research indicates that higher costs are more likely the result of reduced competition caused by licensing requirements.

The Institute for Justice provides this example of the harm to competition and consumers from occupational licensing:

In some cases, licensing can drastically reduce the availability of entire classes of services. Neatly illustrating this is the example of African-style hair braiding in Louisiana and Mississippi. With a substantially larger black population, Louisiana might be expected to be a better market for African-style hair braiders than neighboring Mississippi. Yet in 2012, Louisiana had just 32 braiders legally allowed to serve the whole state, while Mississippi had over 1,200. The difference likely was not one of market opportunity. Instead, licensing barriers seem to have contributed to the disparity. Louisiana demands braiders undergo 500 hours of training for a braiding license, while Mississippi requires only that braiders register with the state. Because they lock aspiring braiders out of work, Louisiana's steep requirements make braiding services significantly harder to find. Tellingly, Louisiana's steeper burdens do not appear to result in fewer consumer complaints against braiders compared to Mississippi's lighter burdens. ([At What Costs](#))

**Solutions: Reducing Occupational Licensing in Texas**

Summarizing this paper's discussion of occupational licensing, a number of faults can be found in Texas' current regulation of occupations. Occupational licensing in Texas is a barrier to entry for employment, increases unemployment, results in higher costs and prices for consumers, reduces competition and customer choice and satisfaction, promotes corporate cronyism, and lowers

economic growth. Once the facts are known, there is little support for licensing most occupations in Texas.

The primary rationale for occupational licensing today is to support the parasitic relationship between business and government that distorts and destroys the free market and is a money trough for Austin lobbyists. As a result, little attention is paid to the fact that occupational licenses have become a major obstacle for many Texans seeking to enter or reenter the workforce, especially the low-skilled and economically disadvantaged. This includes many minorities who do not enter certain occupations because of the time and cost barriers.

These outcomes should not be surprising when we consider that we have turned much of the Texas economy over to 181 legislators and a few thousand bureaucrats, lobbyists, and people in industries who already have licenses. Why should we expect these people to come to better decisions than the millions of Texas who produce and purchase all these products and services? Particularly when we understand the political and economic corruption that these special interests are subject to.

To begin the evaluation of currently licensed occupations, this paper reviews the occupations regulated by the Texas Department of Licensing and Regulation. TDLR lists 38 categories of occupations or businesses it regulates on its

website. After reviewing these based on the criteria developed in this paper, the Foundation recommends that the licenses or other regulations for 28 of these be eliminated. Instead, the state and consumers can rely on voluntary and market schemes to protect consumers' health, safety, and pocketbooks, along with the use of civil action when harms occur that cannot be addressed otherwise. Figure 4 uses the categories developed by the Institute for Justice to explain the possible levels of alternatives to regulating for each of the occupations listed.

**Figure 4: Recommendations for De-Regulating Private Occupations Regulated by TDLR**

Occupation Licensed or Regulated by TDLR	Regulatory Intervention			Civil Action	Voluntary/Market			
	Certification/Registration	Bond/Insure	Inspect		Bond/Insure	3rd-Party	Self-Disc	Market
Air Conditioning and Refrigeration				x	x	x	x	x
Athletic Trainers				x	x	x	x	x
Auctioneers				x	x	x	x	x
Barbering				x		x	x	x
Behavior Analysts				x		x	x	x
Boiler Safety				x	x	x	x	x
Cosmetologists				x		x	x	x
Dietitians				x		x	x	x
Dyslexia Therapy				x		x	x	x
Electricians				x	x	x	x	x
Elevators/Escalators				x	x	x	x	x
Hearing Instrument Fitters and Dispensers				x		x	x	x
Industrialized Housing and Buildings				x	x	x	x	x
Laser Hair Removal				x		x	x	x
Licensed Breeders				x		x	x	x
Massage Therapy				x		x	x	x
Midwives				x	x	x	x	x
Mold Assessors and Remediators				x	x	x	x	x
Motor Fuel Metering and Quality				x	x	x	x	x
Professional Employer Organizations				x	x	x	x	x
Property Tax Consultants				x		x	x	x
Property Tax Professionals				x		x	x	x
Service Contract Providers				x	x	x	x	x
Pathologists and Audiologists				x	x	x	x	x
Tow Trucks, Operators and Vehicle Storage				x	x	x	x	x
Transportation Network Companies				x		x	x	x
Used Automotive Parts Recyclers				x		x	x	x

Below is a list of criteria used in determining the recommendation to dereg-

ulate the various occupations. While all of the occupations fell under more than one criterion, they are listed under the primary criterion used in the recommendation:

### ***Voluntary or Limited Licensing***

These are voluntary licensing schemes where people can already engage in the occupation without a license or engage in the occupation if below the threshold for the size of the business. In such cases, if needed, third-party certification can easily replace state licensing:

Dietitians; Dyslexia Therapy; Licensed Breeders

### ***Health and Safety Concerns Can Be Dealt with by Informed Consumers***

Health and safety concerns associated with these occupations are minimal or can be addressed by informed consumers (who, in many cases, are business and commercial enterprises) using voluntary and market measures and existing laws outside of occupational codes to make wise decisions regarding their use and to address problems that arise:

Air Conditioning and Refrigeration; Athletic Trainers; Auctioneers; Barbering; Behavior Analysts; Boiler Safety; Cosmetologists; Electricians; Elevators/Escalators; Hearing Instrument Fitters and Dispensers; Laser Hair Removal; Massage Therapy; Midwives; Mold Assessors and Remediators; Pathologists and Audiologists

### ***Regulation Based on Economic Concerns***

These occupations are regulated largely for economic concerns that can be dealt with through voluntary and market measures, civil law actions, or existing law outside of occupational codes:

Industrialized Housing and Buildings; Motor Fuel Metering and Quality; Professional Employer Organizations; Property Tax Consultants; Property Tax Professionals; Service Contract Providers; Tow Trucks, Operators and Vehicle Storage; Transportation Network Companies; Used Automotive Parts Recyclers; Water Well Drillers and Pump Installers

### ***Legislative Review of All Occupational Licenses***

In addition to those regulated by TDLR, there are many other occupations that require licenses in Texas, including teachers, plumbers, electricians, real estate agents and brokers, liquor store operators, auto dealers, doctors, and nurses. In the past, there have been efforts to review and improve these and other occupational licenses. But the efforts have been weakened or failed because of opposition from special interests. In an attempt to overcome these special interests, the Foundation recommends that the Texas Legislature sunset all current occupational licenses, certifications, and registrations. This should be done without input from the Texas Sun-

set Commission, which almost always seeks to maintain the regulatory state.

## Conclusion

Modern occupational licensing generally raises costs, reduces competition, and harms consumers because of the protectionist nature of the partnership between “guilds” and government. This should cause Texas policymakers and the public to review and reconsider Texas’ current licensing scheme, particularly in light of the biblical foundations of occupational law, which focus on setting standards, providing for restitution, and creating causes of action rather than limiting entry into occupations.

While capitalism sometimes seems chaotic and is often unpredictable, the truth is that free markets operate in an orderly fashion under strict supervision—that of the consumer:

The capitalists, the enterprisers, and the farmers are instrumental in the conduct of economic affairs. They are at the helm and steer the ship. But they are not free to shape its course. They are not supreme, they are steersmen only, bound to obey unconditionally the captain’s orders. The captain is the consumer ([Von Mises](#)).

This means that in Texas, outcomes of the markets are driven by millions of Texans seeking to make the best choice for themselves and their families when choosing products and services. Occupational licensing subverts consumer

interests and preferences to the will of a few politicians, regulators, and special interests. Not only is this harmful to the Texas economy, but it threatens the liberty of all Texans. Every profession can offer certifications for those practicing the profession, but it’s up to the consumer to choose which professionals they want to use, certified or not. Huge areas of government law and regulations will disappear overnight if we eliminate licensing for teachers, real estate agents, insurance agents, etc. All of these professions have massive bureaucracies and government agencies which have nothing to do with personal health or safety. The path to unimaginable prosperity and liberty is to eliminate much of the occupational licensing in Texas and trust the interests of millions of producers and consumers through voluntary exchange in the free market.



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