

PUBLIC POLICY COMMENTARY



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(Let Us) Get to Work: How Expansive Louisiana Occupational Licensing Hinders Entrepreneurship and Hurts At-Risk Populations

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Introduction

Imagine this: as you walk from the waiting area in a barbershop to the barber chair, you notice a little slip of paper on the wall – your barber’s occupational license to practice his trade. You note that it expired on December 31, 2018 – meaning, he’s cutting hair without an active license. The state of Louisiana would presumably advise you to flee the establishment immediately, because your health and the general welfare are in great peril, or at the very least because you are abetting unlawful actions.

So, what is an occupational license? Simply put, it is a formal permit required by governments to hold a specific job. Generally, they are intended to protect the health and safety of the public by circumventing fraudulent or unqualified service providers.¹ The requirements for obtaining a license vary by occupation, but typically come in the form of fees, training, and exams. Requiring licenses for practitioners of occupations that, without proper training, could pose a threat to the health and safety of the public is reasonable. However, Louisiana engages in excessive and burdensome licensing requirements that create avoidable challenges and barriers for individuals seeking employment. In the end, these barriers lead to restricted access to licensed occupations, lower entrepreneurship rates, and even higher recidivism rates.

Occupational Licensing in Louisiana

Between 1950 and 2008, the percentage of U.S. workers required to have an occupational license from a state government grew from 5 percent to nearly 29 percent.² Though Louisiana is not the only state with occupational licensing laws, it is one



To obtain a barber license in Louisiana, one must:

- Complete 1,500 hours of post-secondary training
- Pay a \$32 exam fee
- Pass a written and practical exam
- Be determined to be of “good moral character and temperate habit”
- Pay a \$40 license fee

The practical exam requires applicants to bring two models: one male and one female. The state Board of Barber Examiners requires, “All applications should be prepared for an all day examination, and when called upon, models must be available immediately, regardless of the time. Any application delaying the examination at any time may be disqualified.” Applicants must be prepared to perform a list of services as well as “any other service necessary as determined by the board.”

1 https://www.brookings.edu/wp-content/uploads/2016/06/THP_KleinerDiscPaper_final.pdf

2 https://www.brookings.edu/wp-content/uploads/2016/06/THP_KleinerDiscPaper_final.pdf p.5

with the most burdensome. The Institute for Justice found that Louisiana requires licenses for 77 of 102 lower-income occupations, tying with Washington state for licensing the greatest number of the occupations included in the study, and earning the ranking of the 6th “most broadly and onerously licensed state.”³ Some of these burdensome requirements are for occupations that pose little to no risk to health or public safety.

Occupation	Training/ Experience	Number of Exams	Exam Fee	Initial State License Fee	Annual State License Fee
Barbers ⁴	1,500 hours	2	\$32	\$40	\$40
Cosmetologists ⁵	1,500 hours	2	\$75	\$40	\$25
Florists ⁶	-	1	\$114	\$100	\$100
Interior Designers ⁷	6 years	1 ⁸	\$225	\$150	\$150

These examples illustrate the waste and inefficiencies prominent in Louisiana’s licensing rules overall. On average, Louisiana’s licensing laws require \$360 in fees and 202 days of education and experience to enter the 102 lower-income occupations.⁹ The burdens imposed by examinations, vague morality clauses, and fees serve as barriers that discourage entry into these fields, shielding current practitioners from competition, and decreasing options for consumers.

Louisiana is the only state to license florists. An experiment conducted by the Institute for Justice asked florists from both Louisiana and Texas to judge floral arrangements from both states, without knowing the origin of the arrangements. The judges’ scores indicated the arrangements did not differ in quality. Dick M. Carpenter II, Ph.D, director of strategic research for the Institute for Justice, concluded, “Not surprisingly, there is a complete dearth of evidence for the law’s benefit to anyone other than already-licensed florists and the state’s revenue stream.”¹⁰

Louisiana is only one of four states to license interior designers, requiring interior designers to complete a total of six years of postsecondary education and experience, longer than the education requirements for Registered Nurses. Those applying for an interior designer license in Louisiana are required to pass a national exam; however, under Louisiana’s Interior Design Statute, licensed interior designers who were 65 years of age as of January 2000 are not required to pass the exam required of new applicants.¹¹ To allow current practitioners to keep their license without meeting the new criteria required of new applicants calls into question whether these requirements are truly intended to protect the health, safety, and welfare of the public.¹²

Why It Matters

Excessive financial and training requirements create barriers to entry for those seeking to engage in a licensed occupation. As a report produced by the Departments of Treasury and Labor and the Council of Economic Advisers puts it, “Fundamentally, licensing affects who takes what job.”¹³ These barriers restrict employment

3 <https://ij.org/report/license-work-2/ltw-state-profiles/ltw2-louisiana>

4 https://www.cfprd.doa.louisiana.gov/boardsandcommissions/RulesAndRegulations/4_img007.pdf

5 <http://www.lsbclouisiana.gov/pdfs/goldbook.pdf>

6 <http://www.ldaf.state.la.us/wp-content/uploads/2014/05/Hort-Comm-Law-Rules-November-2016.pdf>

7 <http://lsbid.org/laws.pdf>

8 This is a national exam; \$225 is the application fee, which does not include registration fees.

9 <https://ij.org/report/license-work-2/ltw-state-profiles/ltw2-louisiana>

10 <https://ij.org/wp-content/uploads/2015/03/laflowerreportfinalsm.pdf> p.4

11 <http://lsbid.org/laws.pdf> § 3178. Certificate of registration without examination ” B. All persons who are sixty-five years of age or older and who are authorized to use the term “licensed interior design” on January 1, 2000, shall not be required to establish proof of passage of the required examination or to otherwise comply with the provisions of Subsection A of this Section. However, such persons shall comply with all other requirements of this Chapter.”

12 https://www.brookings.edu/wp-content/uploads/2016/06/THP_KleinerDiscPaper_final.pdf p.8

13 https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf p.12

opportunities for those who do not have the financial resources to cover education costs, as well as exam and licensing fees. In the Baton Rouge Area, 16 percent of the population aged 18 to 64 lives below the poverty level; for those aged 18 to 34, that number jumps to 22.4 percent.¹⁴ Needless restrictions on employment are a barrier to those living in poverty, who already have a disproportionately high rate of unemployment. Louisiana does its citizens, particularly the economically disadvantaged, a disservice by limiting access to licensed occupations.

Not only does occupational licensure limit opportunity for the economically disadvantaged, it also discourages entrepreneurship. A 2015 study by the Goldwater Institute found that the average entrepreneurship rate in states that require licenses for more than 50 percent of low-income occupations was 11 percent lower than the average entrepreneurship rate for all states. Conversely, states that licensed fewer than a third of low-income occupations had an average entrepreneurship rate about 11 percent higher than the average rate for all states.¹⁵ In the Capital Region of Louisiana, 82 percent of all businesses have fewer than 10 employees¹⁶; the entrepreneurialism of small businesses is indispensable to the local economy.



Occupational Licensing and Student Loans

According to R Street Institute, Louisiana is one of 15 states that allow occupational licensing boards to strip occupational licenses based on student loan defaults.¹ In particular, the state's Board of Nursing withdrew the licenses of 87 nurses because they fell behind on student loan payments.² This policy not only hurts the individuals denied the ability to pursue their career, but also the public at large. Nursing is a high-demand occupation in the state, so artificially shrinking the labor pool increases wages. These wage increases are passed on to consumers in the form of higher overall healthcare costs.

1 <https://2o9ub0417chl2lg6m43em6psi2i-wpengine.netdna-ssl.com/wp-content/uploads/2018/06/Final-148-for-posting.pdf>
2 <https://www.lsbns.state.la.us/Portals/1/Documents/AnnualReport/AnnualReport2016.pdf> p. 25

The hidden cost of these licensing regimes is of note as well. It costs almost half a million dollars a year and five employees to regulate Louisiana barbers through the Board of Barber Examiners. In 2017, the board collected \$372,974 in license fees and \$26,640 in examination fees from current and aspiring barbers.¹⁷ These sorts of fees paid for by Louisiana businesspeople do not even include occupational licensing fees imposed on them at the parish level. For instance, East Baton Rouge's local occupational licensing ordinance allows the parish "to levy and collect[]...the maximum occupational license taxes" allowed¹⁸; state law allows local bodies to levy a tax up to the state's own licensing fee. In 2017, the East Baton Rouge city-parish collected \$11,173,100 in licensing fees.¹⁹

Beyond limiting employment and entrepreneurial opportunities, occupational licensure can cause a number of additional economic challenges. By reducing employment and stifling competition, licensing raises the price of goods and services, shifting the burden of the fees and costs to consumers, and putting even more strain on those with limited financial resources. Additionally, occupational licensure limits the mobility of

14 American Community Survey 2017, 5-year estimates

15 https://goldwaterinstitute.org/wp-content/uploads/cms_page_media/2015/4/15/OccLicensingKauffman.pdf p.14

16 YourEconomy.org, Baton Rouge 2017 Business Types

17 <https://www.cfprd.doa.louisiana.gov/boardsandcommissions/home.cfm>

18 East Baton Rouge Parish Ordinance 9537, Adopted Nov. 25, 1992

19 2019 Annual Operating Budget, The Consolidated Government of the City of Baton Rouge and Parish of East Baton Rouge, LA, p. 30

licensed employees, as license requirements differ from state to state, reducing or complicating employment opportunities for individuals looking to move to Louisiana.²⁰

Recidivism

According to the Louisiana Department of Public Safety and Corrections, each year about 18,000 offenders return to Louisiana communities upon release from state prisons and jails. Within five years of their release, nearly 43 percent return to prison.²¹ Employment for released prisoners is crucial, as “an offender’s education and post-release employment were significantly and statistically correlated with recidivism.”²² Occupational licensing criteria, whether it bars ex-felons outright or imposes onerous education and financial requirements, produces additional barriers to entry for the previously incarcerated, limiting their employment opportunities and statistically increasing the likelihood of recidivism.

Released individuals face barriers to entry to lower-wage jobs in Louisiana, as the licensing rules for occupations may contain clauses that either allow denial of applications if the applicant has a felony conviction, or vague morality clauses that allow denial if the applicant is not of “good character.” For example, Louisiana barbers “must be of good moral character and temperate habit.”²³ As a report from the National Employment Law Project explains, “The common use of vague statutory terms, such as a ‘good moral character’ requirement or restrictions against offenses of ‘moral turpitude,’ leaves workers without clarity as to whether their past conviction is a disqualification. Without any procedural safeguards, guidelines, or limits on discretion, this opaque process may shroud automatic denials.”²⁴ Occupations that don’t have rules outright forbidding felons, such as barbers, still have vague morality requirements, which in practice may cast an even wider net than specific provisions.

It is crucial to ensure that this population not have unnecessary barriers to entry in regard to employment opportunities to reduce the likelihood of reoffending. A 2016 report published by the Center for the Study of Economic Liberty at Arizona State University links occupational licensing requirements to greater recidivism. It estimates that between 1997 and 2007, states with the most burdensome occupational licensing regulations saw an average increase in their three-year, new-crime recidivism rate of more than 9 percent, while states with the least burdensome regulations and no “good character” criteria saw an average decline of 2.5 percent.²⁵ Louisiana has the second highest incarceration rate in the country, with 1,270 incarcerated per 100,000 adults (2016),²⁶ meaning that policies that heighten recidivism have a greater proportionate effect on it than nearly any other state.

The Capital Area ReEntry Coalition estimates that approximately 3,000 released inmates take up private residence in the Baton Rouge Area each year. These previously incarcerated residents may be denied occupational licenses because of felony and “good character” provisions in licensure rules. They may desire to

20 https://www.brookings.edu/wp-content/uploads/2016/06/THP_KleinerDiscPaper_final.pdf p. 14

21 <https://doc.louisiana.gov/reentry-overview>

22 <http://www.sascv.org/ijcjs/pdfs/nallyetalijcjs2014vol9issue1.pdf>

23 https://www.cfprd.doa.louisiana.gov/boardsandcommissions/RulesAndRegulations/4_img007.pdf Statue 1501

24 <https://s27147.pcdn.co/wp-content/uploads/Unlicensed-Untapped-Removing-Barriers-State-Occupational-Licenses.pdf> p. 2

25 <https://research.wpcarey.asu.edu/economic-liberty/wp-content/uploads/2016/11/CSEL-Policy-Report-2016-01-Turning-Shackles-into-Bootstraps.pdf> p. 2

26 <https://www.bjs.gov/content/pub/pdf/cpus16.pdf> p.11

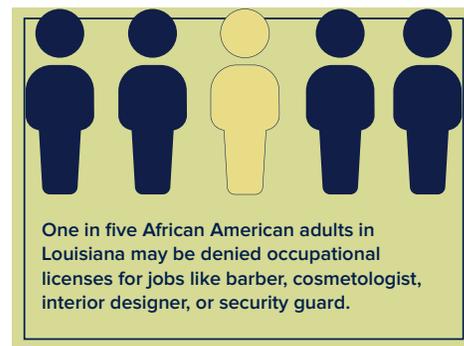


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1 <https://www.bjs.gov/content/pub/pdf/cpus16.pdf> p.11

work in occupations that do not involve health or public safety but are disallowed from doing so; the morality requirements make employment in many low-skilled professions unlawful. In a perverse twist, obeying state licensure rules and foregoing employment opportunities may put this group at a higher risk of recidivism.

In addition, a 2017 study estimated that as of 2010, between 17 and 22 percent of African American adults in Louisiana are currently serving time for felonies or are ex-felons.²⁷ As a result, one in five African American adults may be denied the ability to work in low-skill jobs by licensing boards whose rules include felony or “good character” provisions.²⁸ This barrier decreases their employment opportunities overall, and directly raises the chances of recidivism. Taken alone, this concern over access to employment bolsters the case for occupational licensure reform.



Policy Suggestions and Goals

The promotion of safety and wellbeing of the public is important, and licensure requirements for doctors, architects, contractors, and many other professions make sense. However, licensing laws should be narrowly tailored to protect health and safety. They should be designed to encourage talented individuals to migrate to the state and allow the unemployed to enter lower-skill jobs more easily.

The most important action that Louisiana can take is to eliminate licensing requirements from occupations that do not deal with health, public safety, or fiduciary and other heightened duties of care. It makes sense to protect consumers from unfit lawyers, nurses, and accountants, as these occupations directly impact one’s freedom, health, livelihood, and financial wellbeing; the same cannot be said for the occupations mentioned throughout this report and many like them. Licenses should be required only when the average consumer cannot judge the quality of products or services offered without highly specialized knowledge, and where subpar quality poses grave risk. While legislation enacted in 2018 calls for a review of all occupational licensing every five years, it lacks teeth and essentially delays any reforms to the system for five years.

Once the number of occupations that require licensure is decreased, the state should create more accessibility to obtaining licenses in the remaining fields. Rather than simply disallowing felons, rehabilitated individuals could be asked to participate in substance abuse counseling or to provide affidavits from parole officers to be eligible for licenses. At a minimum, the occupations should have timing requirements, stating that after a set period, the felony cannot be held against one’s application. Recidivism is costly to taxpayers, and employment lowers rates of recidivism. These measures allow those that are committed to entering the workforce a greater chance of doing so, enhancing personal dignity and benefitting the greater community.

By breaking down barriers to occupations that have little impact on community health and public safety, the state would not only increase economic opportunities for those unable to afford steep training and licensing fees, but also for former felons seeking to reintegrate into the workforce. Rather than protecting practitioners entrenched in the occupations, these steps would encourage entrepreneurship and give consumers more options. The free-market idea behind this reform is aligned with the progressive ideals that public policy should aid the indigent, as well as offer reformed criminals the opportunity to successfully reintegrate into society. Occupational licensure reform is a rare opportunity for political advocacy groups and politicians from across the political spectrum to work together and enrich the lives and economic opportunities of their constituencies across-the-board.

27 <https://link.springer.com/article/10.1007%2Fs13524-017-0611-1>; dataset available at https://static-content.springer.com/esm/art%3A10.1007%2Fs13524-017-0611-1/MediaObjects/13524_2017_611_MOESM1_ESM.pdf

28 Statutorily, boards have discretion to deny the issuance of licenses to felons in cosmetology (La. R.S. 37:600(A)(8)), interior design (La. R.S. 46:1101(A)(2)), auctioneers (La. R.S. 46:1121(A)(1)), and many other occupations.