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TESTIMONY

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OCCUPATIONAL LICENSING IN MISSOURI

By David Stokes

Testimony Before The Missouri House

Professional Registration And Licensing Committee Regarding House Bill 1824

"That is not a just government, . . . where arbitrary restrictions, exemptions, and monopolies deny to part of its citizens . . . free use of their faculties, and free choice of their occupations." — James Madison (1792)

Honorable Members of the Committee:

Ladies and gentlemen, thank you for the opportunity to testify today. My name is David Stokes and I am a policy analyst for the Show-Me Institute, a nonprofit, nonpartisan Missouri-based think tank that supports free-market solutions for state policy. The ideas presented here are my own. This testimony is intended to summarize research that the Show-Me Institute has conducted and reviewed regarding the imposition of occupational licensing requirements in general, and the specific changes made to the process of occupational licensure in Missouri as proposed in House Bill 1824.

Attempts to license certain occupations are almost always initiated by the current practitioners of that field. They often do this because they want the benefits of

limiting competition under the guise of improving safety or protecting consumers. Missouri has fewer of these occupational licensing requirements than other states, and we should be proud of that. This is significant, because fewer licensing regulations means that goods and services are cheaper for consumers, and fewer job seekers have to ask the government's permission before working in the occupations of their choosing. Missouri, nonetheless, has plenty of examples of unnecessary licenses at the state and local levels.

HB 1824 attempts to address this issue of overly burdensome licensing requirements in a variety of ways. It requires that evidence be provided in support of licensing. It requires that licensing or other levels of regulation be instituted as part of a defined ladder of measurements instead of automatically seeking tighter requirements when lesser regulatory

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levels will effectively serve the public interest. Finally, this bill puts into law the idea that occupational regulations of various types should be the exception--only imposed when genuinely necessary, and not the rule to be imposed anytime a certain occupation asks for it. All of these proposals are fine policy improvements for Missourians.

As most people are aware, certain occupations in Missouri require approval from the state or local government before an individual may perform that service. One cannot be a lawyer representing others before the court without attending law school and passing the bar exam, for example. The topic of occupation licensure has interested economists for some time. Nobel Prize winner Milton Friedman dedicated an entire chapter to it in his seminal 1962 book *Capitalism and Freedom*. Friedman, and many other economists, believed that occupational licensing harmed the economy.

In Friedman's book, he identified three classes of occupational licensing: registration, certification, and licensure. Registration is simply requiring a person to register with some level of government before they perform a service or trade. Often, this level adds very little in cost to an occupation and serves a very valid purpose. Federal registration of firearms dealers and local registration of taxicabs are two examples Friedman cites as serving a reasonable purpose.

Certification is when the government grants an approval to select people in an occupation to identify themselves in some manner. The most prominent example of this is Certified Public Accountants. The law does not prevent

people who have not been certified as CPAs to do that type of work. Indeed, there are many people who are not CPAs who make their living doing bookkeeping and tax returns. Interior designers are another example in Missouri of an occupation that is certified but not licensed. Friedman argues that there are civil and voluntary organizations that can do this type of certification service just as well as the government, and without the coercion aspect of the government.

The final, most burdensome, and most common, class is licensure. In licensing, the government, usually in combination with a board or commission it establishes, sets standards and requirements as to who can practice a certain occupation. These standards may take the form of educational requirements, training hours, practice standards, continuing education classes, work documentation, background checks, etc. Licensure usually adds significant costs to becoming a member of the occupation, which is frequently the point of it from the perspective of current practitioners who are grandfathered in when licensing is enacted. In many cases, the public objective of licensing can be readily met through registration or certification, but full-blown licensure is enacted because that is where current practitioners can get the most personal benefits. HB 1824 attempts to correct that abuse by requiring the level of licensure to be commiserate with the level of public welfare involved.

Make no mistake about it. There is little groundswell of public support demanding that certain occupations be licensed. In most cases, current practitioners of an occupation will seek

occupational licensing under the pretexts of consumer protection and professional prestige in order to limit future competition within their field. It is the classic case of concentrated benefits versus dispersed costs that infects these issues of occupational licensing wherever they are implemented. Missouri is spending more than \$40 million in the current fiscal year on professional registration. I suggest that much of that money is wasted on unnecessary regulations.

Occupational licensing increases costs to consumers, limits competition, and unnecessarily involves the government in the free market. It usually does not achieve its ostensible goal of improving service quality, and can result in harmful unintended, yet thoroughly predictable, consequences.¹ For example, areas with more stringent licensing of electricians have higher rates of electrocution.² The reason for that is simple. Licensing increases costs. Higher costs lead to more do-it-yourself work, and that leads to more accidents. States with stricter dental licensing laws have a higher incidence of poor dental hygiene for the same basic reason.³ Similar, though perhaps less drastic, effects can be found in many other licensed occupations.

The examples of occupational licensing in Missouri range from the common (surgeons and lawyers) to the unnecessary (interior designers), to the ridiculous (auctioneers and hair braiders). It is unfair and unnecessary to require young women who would like to perform African-style hair braiding in Missouri to first undergo 1,500 hours of cosmetology training for skills they will never need to use. Absolutely

nothing is gained by such regulation, other than protecting the interests of established cosmetologists when barriers are enacted against those wishing to perform only hair braiding for a fee. Occupations that wish to voluntarily engage in standards and other types of economic signaling are free to do so of their own accord. Many industries currently have organizations willing to certify professional credentials for members on a voluntary basis. These industries, which include insurance and information technology, make full use of voluntary certification without any government coercion. That system works well, and improper use and advertisement of such credentials can be handled through civil courts. Fraud is still fraud, whether a state license is involved or not.

How does one choose to hire someone from a particular profession, e.g., a plumber or a lawyer? Advocates for licensing might have us believe that, in the absence of state licensing rules, people just randomly pick one and are regularly subject to fraud and abuse from those they choose. These arguments are made for every occupation seeking market power through coercion.

Two years ago when we bought a new house, I needed a home inspector. We hired ours the same way the large majority of other Missourians do — through a recommendation from our realtor, or other trusted person. The home inspector we used regularly works for many realtors, and if he does a poor job, or charges too much, he knows the realtors will stop recommending him. In a competitive market (and licensing inhibits competition), the inspector's job

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performance and reputation are what puts bread on his table, not a state license.

Numerous economic studies have shown that government licensing standards do not improve consumer health and safety (*see* Appendix). In fact, licensing often causes consumer safety, and the quality of products or services, to decrease. This is because licensing requirements are often arbitrary and not necessarily related to practical job skills or knowledge, and the false sense of security that a license provides can cause customers to be less discriminating.

Conclusion

Fewer occupational licenses means more opportunity for employment, lower professional entry costs, more competition, and greater choice for consumers. In this distressed economic climate, it is more important than ever to encourage entrepreneurship and remove regulatory barriers to work. HB 1824 makes several excellent changes to Missouri public policy that would lead to even more freedom and prosperity for Missourians.

I urge Missouri officials to take these issues into careful consideration each time a group of existing businesses group together to obtain licensing requirements. Even though all the existing members of that group may desire licensure, and even though the issue and request may seem minor, the effects on our economy and our freedoms are not minor.

Thank you for your time and I would be pleased to answer any questions.

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APPENDIX

Effects of Licensing Regulations on Product Quality

Author	Date	Country	Occupation	Restriction	Impact on Quality
Holen	1978	USA	Dentist	Direct entry	Positive
Feldman & Begun	1985	USA	Optometrist	Commercial practice, Advertising, Continuing education	Positive
Healey	1973	USA	Laboratory Personnel	Licensing	Neutral
Cady	1976	USA	Pharmacist	Advertising	Neutral
Bond, et al.	1980	USA	Optometrist	Advertising, Commercial practice	Neutral
Jacobs, et al.	1984	USA	Lawyer	Advertising	Neutral
Paul	1984	USA	Physician	Licensing	Neutral
Young	1986	USA	Accountant	Licensing	Neutral
Muris & McChesney	1978	USA	Lawyer	Advertising	Negative
Trebilcock, et al.	1979	Canada	4, including Accountant, Architect, Engineer, and Lawyer	Price advertising	Negative
McChesney & Muris	1979	USA	Lawyer	Advertising	Negative
Carroll & Gaston	1981	USA	7, including Dentist, Electrician, Optometrist, Plumber, Real Estate Agent, Sanitarian, and Veterinarian	Direct entry	Negative
Kwoka	1984	USA	Optometrist	Advertising	Negative
Cebula	1998	USA	Lawyer	Advertising	Negative
Martin	1982	USA	Pharmacist	Direct entry, Reciprocity	Mixed

Source: LECG Ltd., *Restrictions on Competition in the Provision of Professional Services: A Report for the [Canada] Office of Fair Trading*, December 2000, p. 22. View online here: http://www.oft.gov.uk/shared_oftr/reports/professional_bodies/oft328.pdf.

NOTES

¹ Stokes, David. "Occupational Licensing of Massage Therapists in Missouri and Kansas." Show-Me Institute Case Study No. 2, 2008.

² Carroll, Sidney L., and Robert J. Gaston. "Occupational Restrictions and the Quality of Service Received: Some Evidence." *Southern Economic Journal*, vol. 47, no. 4, April 1981, pp. 959-976.

³ Shepard, Lawrence. "Licensing Restrictions and the Cost of Dental Care." *The Journal of Law and Economics*, vol. 21, no. 1, April 1978, pp. 187-201.

PERSONAL NOTES



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