



TESTIMONY

February 13, 2013

OCCUPATIONAL LICENSING IN MISSOURI

By David Stokes

*Testimony Before The House Professional Registration
And Licensing Committee*

“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)

To the Honorable Members of This 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.

There are few absolute truths in life, but we do have some: death, taxes, gravity. If demand for a good

increases and supply remains the same, the price will increase. And, — most germane to this committee meeting — attempts to license certain occupations will be initiated by the current practitioners of that field. 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.

David Stokes is a policy analyst at the Show-Me Institute, which promotes market solutions for Missouri public policy.

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In every case, current practitioners of an occupation seek occupational licensing under the pretexts of consumer protection and professional prestige in order to limit future competition within their field.

Certain occupations in Missouri require approval from the state or local government before an individual can perform that service. One cannot be a lawyer representing others before the court without attending law school and passing the bar exam, for example. This 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 taxi cabs are two examples Friedman cites as serving a reasonable purpose.

Certification is where 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 can 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 generally the whole point of it from the perspective of current practitioners who get 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.

Make no mistake about it. There is no groundswell of public support demanding that certain occupations be licensed. In every case, 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 propose 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 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 silly (barbers), to the ridiculous (auctioneers and hair braiders). It is abject lunacy that young women who would like to perform African-style hair braiding in Missouri must 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 by enacting barriers to those wishing to perform only hair braiding for a fee. That protectionism is precisely the point.

Licensing laws are virtually always enacted, or made more stringent, because existing practitioners of a profession lobby for the regulations, not because customer complaints or safety concerns necessitate them. Moreover, current practitioners are typically “grandfathered” in so that they do not have to meet the new stricter standards that are imposed on their future competitors. These regulations increase the costs of entering a profession, so existing practitioners can charge higher prices — and earn higher profits — than they otherwise would in a truly free market. Thus, occupational licensing

laws are born of special interests, not the public interest. In short, licensure raises prices and harms consumers.

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, including home inspectors, currently have organizations willing to certify professional credentials for members on a voluntary basis. These industries, which also 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 would likely 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 false arguments are made for every occupation seeking market power through coercion.

Last year, I had a need for 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 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

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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.

Economic Theory

In 1962, economist Simon Rottenberg created two occupational licensing price/demand graphs for a paper analyzing the subject for the National Bureau of Economic Research.⁴ Please review Figures 1 and 2 on page 6. For a detailed description of these graphs, please read pages 9-12 of the Show-Me Institute Case Study “Occupational Licensing of Massage Therapists in Missouri and Kansas.” (A copy of that case study has been included with this testimony.)

For a period around 2002, Saint Louis County removed the cap on the number of airport taxi operators in response to a lawsuit. The number of airport cabs had been limited by ordinance beneath the market clearing level for decades. The removal of the cap had a dramatic effect; the demand queue for obtaining a license had grown so long that a large number of new drivers entered the industry immediately. Because other regulatory interventions continued — such as set fares and the rule that a passenger must take the first cab in line (limiting negotiating) — the normal economic responses to an increased supply were not allowed to take effect. This resulted in a substantial oversupply beyond the market clearing level. Prices could not be lowered to increase demand for taxicabs and thereby provide more work for the new drivers, and customer choice continued to be limited. The

result was that demand and price remained constant even as the supply of employed drivers greatly increased. Predictably, driver wages dropped as drivers were unable to secure enough fares to earn a living.

Instead of allowing the situation to reach eventual equilibrium through voluntarily reduced employment or reduced fares that increase the demand for taxi services, the Saint Louis County government, unfortunately, responded to driver complaints by reinstating a set number of airport cabs. Rottenberg has clearly demonstrated via his graphs the effects of licensing on supply and demand in licensed occupations.

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. State and local officials should refuse future attempts to license other professions, and should make every attempt to reduce the number of occupations that are currently licensed. This 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.

The recent Academy-award winning film “The King’s Speech” told the true story of how King George overcame his speech difficulties. All the King’s licensed speech pathologists and all the King’s licensed clinical audiologists could not correct King George the Sixth’s speech impediment. Only Lionel Logue, an unlicensed therapist, could help the King correct his stammer in time for his famed speech leading his nation at the beginning of World War II.⁵ If unlicensed work met the market demands of the King of England on the eve of a world war, I suggest it will also meet the market demands for Missouri consumers for most types of goods and services.⁶

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

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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.

⁴ Rottenberg, Simon. “The Economics of Occupational Licensing.” *Aspects of Labor Economics*, NBER, Princeton University Press, 1962, pp. 3–20.

⁵ “The King’s Speech,” The Weinstein Company, 2010.

⁶ Be that as it may, the author wishes to be clear that he still prefers a democratic republic like ours to a monarchy.

**Occupational
licensing laws are
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FIGURE 1

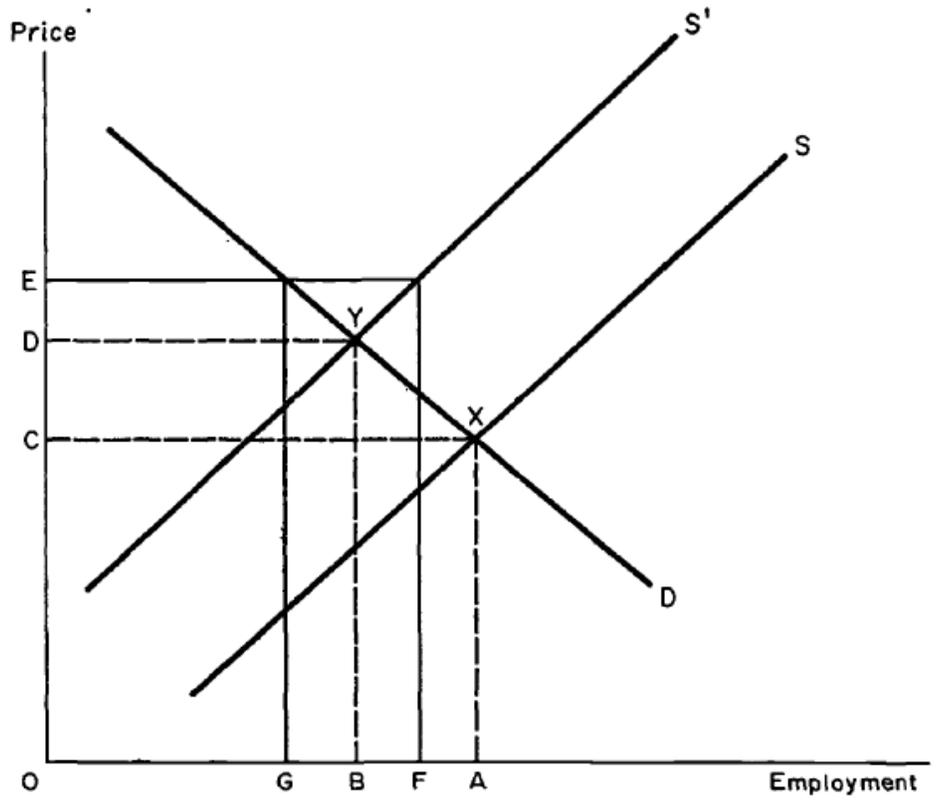
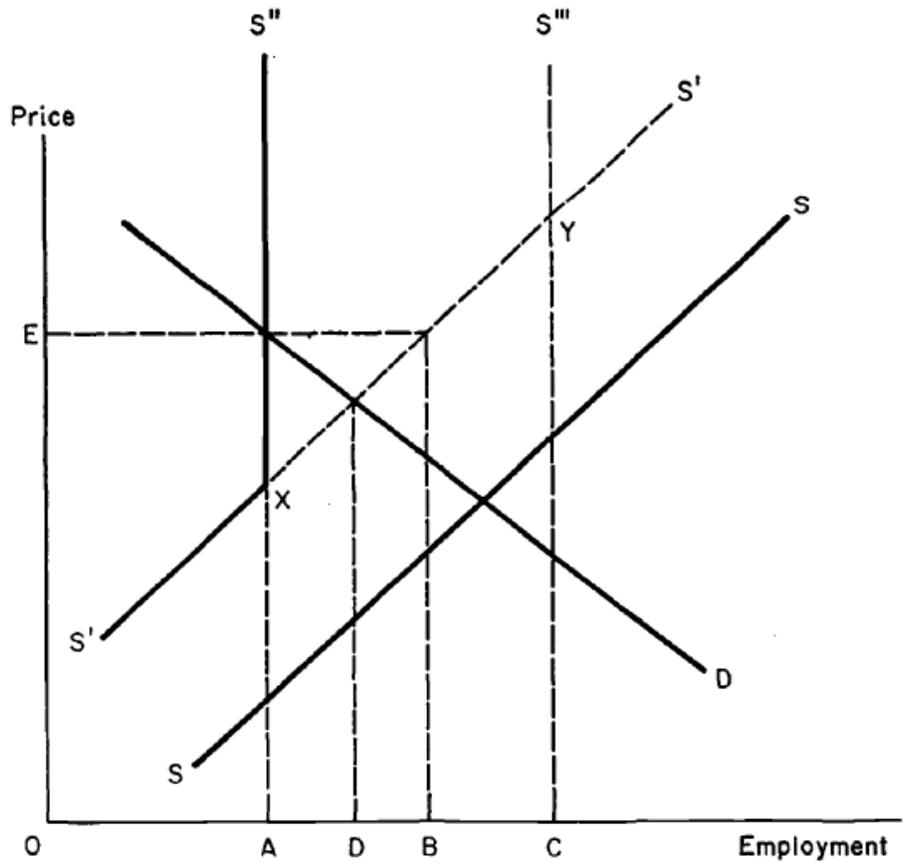


FIGURE 2



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*, Dec. 2000, p. 22.
Online here: http://www.oft.gov.uk/shared_oftr/reports/professional_bodies/oft328.pdf



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