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PERSONAL RESPONSIBILITY AND LIMITED GOVERNMENT IN NEBRASKA.

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## Time to Examine Licensing Laws by Jordan Cash

When people discuss how to make things easier for entrepreneurs and small businesses, proponents of free enterprise will often expound the virtues of low taxes and low regulations, yet there is another area that must be examined: burdensome licensing laws.

Nebraska is better than many states in its licensing laws. The Institute for Justice, a libertarian public-interest law firm, ranked Nebraska 50<sup>th</sup> in burdensome licensing laws compared to all other states and the District of Columbia. However, the Cornhusker state ranked 31<sup>st</sup> for being a broadly licensed state with some high barriers placed upon those wishing to enter the market. Of the 102 low-to-moderate income occupations examined, Nebraska licenses 45 of them, with the average burden consisting of \$140 in fees, one exam, and 147 days lost due to education or experience requirements.[\[1\]](#)

Of course, licensing alone is not bad, some occupations, such as doctors, emergency medical technicians (EMT), child caretakers, athletic trainers, etc., should be licensed because their jobs require a certain level of experience and competency or someone may be injured. The problem with licensing emerges when regulations becomes too burdensome or are applied unnecessarily.

Barbers are an example of the latter; 49 states-including Nebraska-require barbers to have a license. In Nebraska, barbers must pay \$110 in fees, pass two exams, generate 490 days of experience, be at least 17 years old, and have a 12<sup>th</sup>-grade education. Yet these arbitrary barriers are substantially higher than those placed upon barbers in neighboring states-with the exception of South Dakota.[\[2\]](#) On the other hand, Alabama is the only state that does not require licensed barbers; yet Nebraska's licensing requirements do not guarantee Nebraskans have better haircuts, it simply means that it is easier to become a barber in Montgomery than it is in Omaha.[\[3\]](#)

Barbers are not the only occupation with arbitrary licensing procedures. For example, school bus drivers are forced to pay higher fees, take more exams, and have more experience than their city/transit bus counterparts, inherently discouraging potential drivers from wanting to drive a school bus when it is cheaper and faster to become a transit driver.[\[4\]](#) Although school bus drivers should have more scrutiny for safety purposes, the responsibility for ensuring drivers are safe and have had background checks is the responsibility of the school district hiring the driver, not of the state through overzealous licensing procedures. While those driving large machinery-such as

bus and truck drivers-should be licensed, the proper mechanism is not to license their occupation, but to license their skills, which is the reason Nebraska has a Commercial Driver's License (CDL). These licenses determine if the individual has the skills necessary for the job, and leaves it up to the employer-whether private company or public entity-whether or not to hire that person. Eliminating occupational licenses for vehicular jobs while keeping driver's license requirements accomplishes the same task of ensuring those operating these vehicles know what they are doing and keeping the market open for anyone who knows how to operate the machinery.

The randomness of licensing requirements becomes very evident when comparing different occupations; bill collectors, barbers, cosmetologists, title examiners, massage therapists, skin care specialists, sign language interpreters, and manicurists all either pay higher fees, have more days of experience, or take more exams than EMTs. The critical aspect of an EMT's work warrants the state requiring a license, and they should have higher barriers to their occupation to ensure only the most qualified individuals work in that field. However, the reality is that someone can become a licensed EMT in Nebraska with only four days of experience while it takes 490 days of experience to become a licensed cosmetologist.[\[5\]](#)

Some state officials, like Helen Meeks the licensure unit administrator for the Nebraska Department of Health and Human Services, argue that licensing is a form of "consumer protection."[\[6\]](#) This may be true for some occupations, but in occupations that do not threaten the life or limb of the consumer such state protection is not needed, and has the negative effect of preventing people from entering the market quickly and providing competition. Licensing limits the number of practitioners and has the effect of restricting the market, which allows the prices of goods and services to be higher than they would be otherwise.[\[7\]](#)

Additionally, the argument that licenses are consumer protection does not hold up when 22 of the 45 licensed occupations examined consist of only fees. These fee-licenses do not serve a purpose except to raise government revenue, but as a result they put a monetary barrier between an individuals and employment. Imposing fees for licenses does nothing to promote consumer protection and simply constitutes a burden on the potential entrepreneur. While most of these fee-only licenses cost less than \$100,[\[8\]](#) for someone starting out or starting over, \$99 to become licensed as a fisher could prevent them from buying necessary equipment and therefore keep them out of the job-market longer.

Consumer protection is needed, but for occupations like barbers, locksmiths, cosmetologists, farm labor contractors, etc., consumers arguably need more information than protection. If consumers are knowledgeable about the quality of services and have many options to compare and choose from, they can select who they believe will do the job best. A license is no guarantee of a job well done, and a business that does not do a good job or receive favorable recommendations from clients will not survive long.

Placing onerous licensing requirements on individuals trying to enter the marketplace stifles competition and impedes job creation. Nebraska needs to reevaluate its licensing

laws and examine if they are truly necessary or placing an undue burden on job seekers and entrepreneurs.

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[1] Institute for Justice, "Nebraska" in *License to Work: A National Study of Burdens from Occupational Licensing*. May 1, 2012, available at <http://licensetowork.ij.org/ne>, accessed May 30, 2012.

[2] Institute for Justice, *License to Work: A National Study of Burdens from Occupational Licensing*. May 1, 2012. The breakdown of licensing in neighboring states is as follows:

Iowa: <http://licensetowork.ij.org/ia>

Kansas: <http://licensetowork.ij.org/ks>

Missouri: <http://licensetowork.ij.org/mo>

Colorado: <http://licensetowork.ij.org/co>

Wyoming: <http://licensetowork.ij.org/wy>

South Dakota: <http://licensetowork.ij.org/sd>

[3] Matthew Yglesias, "Licensed to Decorate," *Slate Magazine*, May 20, 2012, available at <http://hive.slate.com/hive/10-rules-starting-small-business/article/licensed-to-decorate>, accessed May 30, 2012.

[4] Institute for Justice, "Nebraska" in *License to Work: A National Study of Burdens from Occupational Licensing*. May 1, 2012, available at <http://licensetowork.ij.org/ne>, accessed May 30, 2012.

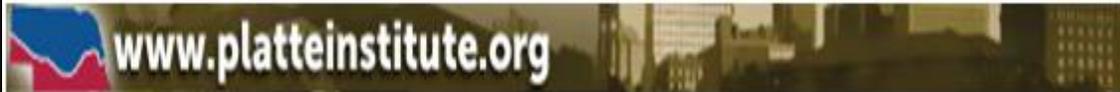
[5] Institute for Justice, "Nebraska" in *License to Work: A National Study of Burdens from Occupational Licensing*. May 1, 2012, available at <http://licensetowork.ij.org/ne>, accessed May 30, 2012.

[6] Martha Stoddard, "Licensing laws too laborious," *Omaha World Herald*, May 27, 2012, available at <http://www.omaha.com/article/20120527/MONEY/705279924>, accessed May 30, 2012.

[7] Walter E. Williams, "How Regulation and Taxation Stifle Entrepreneurship," *Pioneer Institute*, Lovett C. Peters Lecture Series, April 4, 2000, available at [http://www.pioneerinstitute.org/pdf/pdialg\\_32.pdf](http://www.pioneerinstitute.org/pdf/pdialg_32.pdf), accessed May 30, 2012.

[8] Institute for Justice, "Nebraska" in *License to Work: A National Study of Burdens*

*from Occupational Licensing*. May 1, 2012, available at <http://licensetowork.ij.org/ne>, accessed May 30, 2012.



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