

OCCUPATIONAL LICENSING

**GOVERNMENT SHOULDN'T
DETERMINE A WORKER'S FUTURE**

A large, stylized graphic of an eagle's head in profile, facing right, rendered in shades of blue. The eagle's beak is pointed downwards and to the right. The background of the entire page is a dark blue with a subtle pattern of curved lines.

**TEF IOWA
POLICY
REPORT**

Reducing barriers will provide:

- **New opportunities for workers**
- **Attract new people to Iowa**
- **Create a more competitive business environment.**

Among Iowa policymakers and business leaders, a consensus exists that a major problem for the state's economy is a shortage of skilled workers. In fact, this need for workers often overshadows Iowa's low unemployment rate. One area of regulatory reform that could address this need is changes to our occupational licensing requirements. By reducing onerous occupational licensing regulations Iowa can expand economic liberty for existing Iowans, attract new workers, and even provide opportunities to those individuals who cannot currently enter the workforce because they have served time for a criminal conviction at some point in their past.

Reducing barriers for workers will not only provide new opportunities for Iowans, but it will also attract new people to our great state. Iowa must create a more competitive business environment. More reasonable levels of regulation, combined with lower tax rates, would help level the playing field with our surrounding states.

Today 6 in 20 workers need some form of occupational license to earn a living in this country.

During the 1950s in America, 1 in 20 workers needed a license to work. Today 6 in 20 workers need some form of occupational license to earn a living in this country. The Institute for Justice [identifies](#) Iowa as one of the states that license a large number of occupations and impose more burdensome requirements. Only 11 states require more of its lower-income individuals attempting to pursue a career than Iowa does. A large part of that burden is because Iowa requires an occupational license for many occupations that are often not required to have a license in other states:

For example, few other states license travel agencies (six) or dental assistants (eight). Iowa's dental assistant license requires 20 hours of education and six months

Rank	State	Number of 102 Lower-Income Occupations Licensed	Avg. Fees	Avg. Est. Calendar Days Lost	Avg. Exams	Avg. Min. Grade	Avg. Min. Age
1	California	76	\$486	827	2	1	15
2	Nevada	75	\$704	861	2	2	15
3	Arkansas	72	\$246	642	1	2	7
4	Arizona	68	\$612	765	2	1	16
5	Hawaii	63	\$438	988	2	1	16
6	Louisiana	77	\$360	202	2	1	7
7	Virginia	68	\$291	620	1	1	14
8	Oregon	69	\$335	537	1	1	13
9	Washington	77	\$209	163	1	1	6
10	Rhode Island	72	\$223	326	1	1	14
11	New Mexico	66	\$266	520	2	2	14
12	Iowa	71	\$178	288	1	2	5

Only 11 states require more of its lower-income individuals attempting to pursue a career than Iowa does.
Source: Institute for Justice, License to Work, 2nd Edition

of experience (about 185 days total), \$86 in fees, and three exams, steep requirements given that most states do not license the occupation at all. Iowa also licenses commercial and residential HVAC contractors and HVAC sheet metal contractors—some of the most heavily burdened occupations in the nation—much more onerously than the three dozen or so other states that license them. These occupations require 2,190 days—a full six years—of experience in Iowa compared to averages of about half that across other licensed states.

One specific industry in Iowa that may be over-regulated is barbers and hair stylists. *The Des Moines Register* in an [editorial](#) reported on the “ridiculously high 2,100-hour training requirement” for hair stylists. The *Register* reported that the cost of attending a cosmetology school ranges “from about \$20,000 to more than \$30,000,” which is more than attending community



Iowa has a significant shortage of skilled workers.

Days of Training to Become Licensed

**Emergency
Medical
Technicians**
26



Barbers & Hair Stylists

490



college for two years. The educational costs and the licensure requirements often create burdensome debt situations for many stylists. “No state mandates more hours, and most require significantly less. New York requires 1,000, and it’s doubtful people in the Big Apple are suffering any more bad haircuts than people here,” [noted](#) the Register’s editorial. The Register is correct that a better alternative would be for lawmakers to “abolish cosmetology licensing, and the industry can offer certification and training.”

To put those 2,100 hours into context, “EMTs need only [demonstrate](#) 110 hours (roughly 26 days) to become licensed.” This means that EMTs, who are often the first line of defense for saving lives and providing emergency medical care, are required to obtain only a small fraction of the training hours as those working in hair salons.

It is often argued, especially by those industries that are covered by licensure regulations, that licensing is needed in order to ensure the physical or financial well-being of the public. Although the state does have an obligation to protect the public, occupational licensing is not the only option to do so. A balance is needed between regulation and liberty.

Occupational licensing reform does not mean that all licenses should be repealed nor does it mean that a “free-for-all” economy should be created. Alternatives exist that provide [voluntary](#) or limited regulatory options, the first simply being market competition. Especially

in today’s technology-saturated culture that makes Yelp reviews and Facebook comments only a click away, market competition is the first step in protecting the public. It is not uncommon for consumers to consult the reviews of others before deciding how to spend their money. Allowing the market to operate will weed-out those who provide bad services. For example, if a hair stylist constantly performs unsatisfactory work, that business or individual will start losing customers and eventually be forced out of the market. The same can be said for a contractor who operates dishonestly.

Occupational licensing is not the only option to protect the public.

Consider just these three additional alternatives that protect the public without unnecessarily hindering workers and businesses from providing goods and services. Each of them likely protects the consumer more than requiring the provider to obtain a permission slip from the government:

- 1. Professional Certification:** Numerous businesses have industry-specific certifications not provided by the government. Auto repair shops, for instance, will often tout the certification of their mechanics.
- 2. Bonding and insurance:** Knowing financial protection from damage or theft is in place offers consumers a level of confidence before proceeding with major repairs or renovations.
- 3. Inspections:** Restaurants and food-related businesses are subject to regular health inspections to ensure the public is protected from unsanitary conditions.

Market alternatives can provide better oversight than protectionist licensure regulations. An unfortunate



Market competition is the first step in protecting the public.

reality is that neither the market nor the state can fully prevent bad service, unscrupulous operations, fraud, or violations of public health and safety. Enough evidence exists that government licensure requirements often serve the protected industry itself more than the public. Allowing greater market freedom will not only allow more economic opportunity but provide the same or even a better level of consumer quality and protection.

Iowa can look to several states across the country that are reducing occupational licensing barriers. Several states require a sunset and review process of occupational licenses, which require legislatures to review and affirm occupational regulations on a regular basis. Other states have required the governor to perform those sunset reviews of occupational licenses. A similar tool, a sunrise provision, which requires a review when new occupational regulations are suggested or when changes are made to existing occupational regulations, is required in some states. Still other states have considered reciprocity provisions; Arizona became the first state to recognize out-of-state licenses and now [Pennsylvania](#) has passed similar legislation. Numerous states are reducing the burdens they impose on workers who are pursuing their chosen careers, but Iowa should specifically consider the reforms made in Arizona, Ohio, and Nebraska.

Iowa could remain competitive with neighboring states by granting universal recognition of out-of-state occupational licenses.

Arizona is a leader in occupational licensing reform. In 2019 [Arizona](#) continued its regulatory reform efforts when it became the first state “to grant universal recognition of out-of-state occupational licenses for new residents.” [Arizona](#) will grant a license “to new residents who were licensed for at least one year in another state, so long as their credentials haven’t been revoked, they’re not the subject of any pending investigation, and they don’t have a disqualifying criminal record.” In addition to reciprocity, Arizona has also eliminated some occupational licenses. The state has “removed burdensome and unnecessary occupational licensing requirements for those who only blow dry, shampoo and style hair by exempting them from cosmetology regulations meant for more technical salon services.” In addition, “since [2015](#), Arizona has eliminated occupational licensing requirements for assayers,



Waiving fees for those living below the federal poverty level would remove workforce barriers for those who need it most.

citrus, fruit and vegetable packers, yoga instructors and driving school instructors in addition to making licensing requirements optional for geologists and cremationists.”

To help lower-income individuals in Arizona, their legislature in 2017 “passed a law waiving licensing fees for individuals earning less than 200 percent of the federal poverty level, reducing a key workforce barrier for those in need.” This has resulted in “881 fees waived for low-income applicants since September 2017.” Governor Doug Ducey is also curbing regulations that stifle economic liberty. Ducey has issued a “moratorium on all new regulatory rulemaking in Arizona, for the fifth year in a row,” which “restricts unchecked government expansion that stifles innovation and job growth and provides Arizona businesses with certainty that they won’t have the rug pulled out from under them.” This has led to the elimination of over 1,098 unnecessary regulations, cutting the red tape that gets in the way of job creation and economic growth, saving job creators over \$79 million.”

In 2017 Governor Ducey issued an executive order that required a [review](#) of Arizona’s licensing mandates. The executive order required licensing boards (independent organizations that establish occupational licensing requirements) to do the following:

- Review their licensing requirements, including training requirements, continuing education standards, and initial and renewal fees.
- Determine the number of states that also license these occupations and the national average for training requirements, continuing education, and fees.
- Provide a justification if Arizona’s requirements exceed national standards.

- Explain the potential harm to individuals that justifies Arizona’s licensure requirement if fewer than 24 states license an occupation.
- Explain whether someone’s criminal history can be used as a complete or partial barrier to licensure.

Arizona is also considered the model state for the Right to Earn a Living Act, which passed the legislature in 2017. The Right to Earn a Living Act [mandates](#) that “an agency may only issue an occupational licensure rule if it is specifically designed to protect public health, safety, or welfare.” Under the law “if someone is harmed by an occupational regulation, that person may petition the agency to repeal or modify the regulation.” Individuals may also attempt a legal solution to a burdensome occupational regulation by applying to a “circuit court to overturn an occupational regulation.”

When considering ways to ease the burden of occupational licensing, Iowa should implement sunrise and sunset provisions to review the need and effectiveness of the licenses as well as determine whether to keep them in place or eliminate all together.

“An agency may only issue an occupational licensure rule if it is specifically designed to protect public health, safety, or welfare.”

- Arizona’s Right to Earn a Living Act

Ohio is another state that is leading in occupational licensing reform. Ohio’s reform requires both a sunrise and sunset provision for licenses. In the Buckeye State occupational licensing boards expire every six years unless reauthorized by the legislature. The sunset provision [requires](#) the legislature to review “one-third of Ohio’s boards every two years.” In addition, all boards before they are set to expire must demonstrate why there is a public need for the licensure before a legislative committee. In reviewing the licensures the legislature can utilize several criteria including if the license in question is needed to ensure the “health, safety, or welfare of the public.” The legislature can also consider whether the licensure “regulations are the ‘least restrictive’ form possible.”

The sunrise provision in Ohio requires a review of new or revised existing occupational licenses. The

[Legislative Service Commission](#) must “issue a report on each bill introduced in the House or Senate that either proposes a new occupational regulation or would ‘substantially change’ an existing one.” The sunrise review will also be similar to the sunset provisions because the Commission will be allowed to consider the “regulation’s cost-effectiveness, how other states regulate the occupation at hand, and rely on a ‘least restrictive’ framework for analyzing regulations.” Ohio is currently considering reciprocity for spouses who serve in the armed forces.

Nebraska has also led the way on occupational licensing reform. Nebraska’s reform requires a [sunset](#) provision, which “mandates that legislative committees annually review 20 percent (5-year reviews) of the occupational regulations governing the areas under their jurisdiction.” The legislative committees that are reviewing the occupational regulation must issue “a report that recommends ending, modifying, or maintain these regulations.” In addition, the [review](#) “must include information on the number of licenses issues or denied by the board being reviewed, an examination of the basic assumptions underlying the board’s powers, and a comparison of what other states do in similar occupations.”

Nebraska’s occupational licensing reform also states an individual’s right to pursue work is a “fundamental right” and the “state should use the least restrictive means to protect the public when regulating an occupation, and that these regulations should be designed to increase competition and opportunity.” Nebraska’s law also contains a criminal justice provision. Individuals who have a “criminal conviction may apply to a licensing board for a predetermination of whether that conviction would lead to the board to reject the individual’s future application for a license.” If the individual cannot get a license they also have the right to appeal the decision and the law states that the “fundamental right of an individual to pursue an occupation includes the right of an individual with a criminal history to obtain an occupational license, government certification, or state recognition of the individual’s personal qualifications.”

**Iowa can look to
Arizona, Nebraska, and Ohio
for ideas on how to reform
occupational licensing.**

Iowa can look to these three states and many others for ideas on how to reform occupational licensing and send a message to workers and employers across the country that Iowa is a great place to build a workforce or pursue a career. In considering reforms, Iowa could ensure that the following improvements are made to our existing occupational licensing laws:

- All existing licensing requirements are reviewed.
- Needless licenses are repealed. (Is the license a necessity to protect the health and safety of the public?).
- Iowans have a right to engage in a lawful occupation.
- Sunrise and sunset provision are required on all occupational licensing requirements to prevent special interests from trying to control competition in the workplace through license requirements.
- Licensing boards are reviewed.
- Hurdles to interstate licensing are lowered so it is easier for qualified individuals to work in Iowa.



Dr. Laura Ebke

Dr. Laura Ebke, Senior Fellow for Job Licensing Reform at the Platte Institute and a former Nebraska state legislator who authored the occupational reform legislation in that state, described some of the specifics that should be applied to both sunrise and sunset provisions:

- A public need for licensing of the occupation, which includes verifiable examples of harm done to individuals or the public which would not have been as likely had proposed licensing been implemented, must be demonstrated.
- Constant consideration of whether--if some sort of regulation is deemed necessary for the public good/safety--it could be done in a less restrictive fashion.

- A review of what other states are doing. From a labor competition standpoint, it's important to know what surrounding states are doing--but we should also be careful not to jump on the "us, too" train. Policymakers should focus on what's necessary to protect the public.

Des Moines Register

PART OF THE USA TODAY NETWORK

Editorial

January 11, 2019

"Iowa has many arcane licensing laws that thwart business growth, make it more difficult for people to find work, limit competition and hurt our economy."

By following these principles, Iowa can make it easier for those in our state to enter or advance in the workforce, and we can roll-out the red carpet for skilled workers considering a move here. Economic liberty is a principle that allows all to benefit. *The Des Moines Register* is [correct](#) that Iowa "has many arcane licensing laws that thwart business growth, make it more difficult for people to find work, limit competition, and hurt our economy." Rea Hederman, Jr., who serves as Executive Director of the Economic Research Center and Vice President of Policy at The Buckeye Institute, [sums](#) it up simply, "Bureaucrats shouldn't determine a worker's future. His or her career should be defined by their skills, talents, abilities, and hard work."

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- Rea Hederman, Jr., The Buckeye Institute



9295 Bishop Dr., Suite 105, West Des Moines, Iowa 50266



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