



April 14, 2017

Hon. John Moorlach
California State Senate
State Capitol, Room 2048
Sacramento, CA 95814

ILYA SHAPIRO
Senior Fellow in Constitutional Studies

Re: In Support of Occupational Licensing Reform and SB-247

Dear Senator Moorlach:

We are a senior fellow and a legal associate (and native Californian) in the Cato Institute's Center for Constitutional Studies. We write to support your effort to reform occupational licensing.

Nearly one in three Americans is now required to obtain a state-issued license in order to do his or her job—the vast majority of whom are engaged in occupations no more sensitive or dangerous than cutting hair, painting fingernails, catching fish, or installing air conditioners. That's a third of the country who must ask the government for permission (and usually pay fees and spend weeks or months training) to earn an honest living. All too frequently, these licensure requirements have, at best, a tenuous relationship to protecting public health and welfare, and instead serve to protect well-connected business interests from potential competitors. Worse still, it is often immigrants, people of color, and those with lower incomes generally who are most burdened.

While legal challenges to this sort of arbitrary and capricious behavior have been met with some limited success, an overriding judicial culture of deference to state governments and the relatively limited precedential scope of even sympathetic decisions make it a slow and difficult slog. This is what makes occupational-licensing reform legislation like SB-247 so incredibly important. We support this bill because it eliminates or lowers licensure requirements for some of California's most egregiously overregulated occupations and creates a promising foundation on which to build further likeminded reforms.

It didn't used to be this way. In the 1950s, only one in twenty American workers needed a license to ply their trade. And while occupational licensing may have roots extending back hundreds of years—medieval guilds imposed strict apprenticeship terms and other entry barriers to protect members at the expense of the public—it is only in recent decades that licensing regimes like the ones SB-247 addresses have proliferated so as to affect nearly every sector of the economy.

Now, we don't mean to imply that occupational licensing can never be beneficial or justified. There is plenty of room for responsible legislators to ensure that professional standards are maintained for people engaged in particularly sensitive or dangerous jobs. But the current state of occupational licensing in California and the nation bears almost no resemblance to that sort of limited system. The overuse of licensing—especially regarding the types of professions addressed in this bill—is bad for the economy, rewards bad actors engaging in cartel behavior at the expense of the general public, and disproportionately burdens the poorest and most vulnerable among us.

Licensing of the kind reformed by SB-247 harms the economy in multiple ways. First, all licensing regimes—not only those that are mere pretext for self-interested protectionism—necessarily raise barriers to entry into the occupation being regulated. The natural effect of raising such barriers is that fewer people enter that market, decreasing supply of those services and leading to higher prices and less convenience for consumers. Widespread licensing also means fewer

workforce participants (*i.e.*, higher unemployment) and fewer people with the disposable income needed to fuel our service-based economy. Furthermore, a lack of genuine competition disincentivizes the sort of innovation and risk-taking that makes a dynamic, growing economy possible. According to a 2011 Brookings Institute paper, occupational licensing results in up to 2.85 million fewer jobs nationwide and an annual consumer cost of \$203 billion.

The harms of occupational licensing extend beyond the impact on Americans' wallets. In many cases, occupational-licensing boards function as little more than legalized cartels, preventing perfectly qualified people from earning an honest living and extorting those that actually do make it past the artificial entry barriers. These boards are usually filled with members of the regulated occupation, many of whom have direct financial interests in maintaining the status quo. They are free to determine the qualifications for their would-be competitors, write and grade their qualifying exams, and make disciplinary decisions with little legislative oversight. It's not uncommon for someone seeking a license to pay a several-hundred-dollar fee, spend thousands of dollars in tuition towards a for-profit training program run by a board member, and buy a textbook written by a board member, in order to pass an exam created by the board. To add insult to injury, the exams are often absurdly difficult—Louisiana's former floristry exam had a passage rate lower than the state's bar exam—or have very little to do with the work the test-taker wants to do. (As is the case for African-style hair-braiders in Missouri, who must pass a barber or cosmetology exam that, over the past 10 years' worth of 13,000 questions, contained only 20 that asked about hair-braiding or general health and safety.) Indeed, health and safety—ostensibly the primary reason for occupational licensing—often appears surprisingly low on licensing boards' lists of priorities.

Finally, it bears mentioning that recent immigrants, racial minorities, and low-income people in general are the ones who suffer most under the burdens of occupational licensing. When you increase the cost of entering a profession, you necessarily most limit entry for those near the bottom of the socioeconomic ladder. This problem is compounded with occupations like the ones SB-247 deregulates that don't usually command very high incomes; it can be difficult to justify spending two years and thousands of dollars to be allowed to make 10 dollars an hour. And one shouldn't forget that the increased cost of consumer goods and services that corresponds with artificial scarcity also tends to be more damaging to those with less disposable income.

SB-247 eliminates the licensing requirements or otherwise rolls back regulations for occupations such as barber, tree trimmer, and auctioneer, and—perhaps most importantly—categorically prohibits local governments from creating their own occupational licensing ordinances. While further reform remains necessary, this bill is an excellent step in the fight against the self-interested restrictions that are all too common in occupational-licensing regimes. It also eliminates or rationalizes some of California's most unreasonable licensing requirements. A vote for SB-247 is a vote against cronyism and artificial scarcity. If passed and signed into law, it will allow more jobs to be created; ensure more goods and services at lower prices to consumers; and provide recent immigrants, people of color, and the least advantaged improved opportunities to earn an honest living and achieve the American dream.

Cordially,


Ilya Shapiro
Senior Fellow in Constitutional Studies


David McDonald
Legal Associate