
Let People Work

Segment Length: 4:42 minutes

Lesson Description:

What is occupational licensing? What are the intentions behind these regulations and what are the effects? How does occupational licensing impact those with criminal records? In this segment, John Stossel looks at one unintended consequence of occupational licensing.

Concepts & Key Terms:

Occupational Licensing – In exchange for permission to legally perform certain jobs, people are required to undergo federal, state, or local government-approved training and to pay licensing fees. Nearly a quarter of those in the U.S. workforce now needs a license to perform their jobs.

Public Interest Law Firm– an association of attorneys, either for profit or non-profit, that takes cases in service to a cause, with a primary mission to assist underrepresented people or causes.

Objectives:

Students will be able to:

- explain occupational licensing laws
- discuss the arguments for and against occupational licensing
- describe the role of public interest law firms in regulations
- assess the impact of occupational licensing on ex-cons trying to rehabilitate themselves

Preview Activity and Questions:

Use Think, Pair, Share to have students answer the following question:

To rehabilitate themselves, former criminals, also called ex-cons, need to find jobs. Are there any jobs they should not be able to get, or should their second chance employment options be limited by the government?

OR

Distribute copies of the K-W-L worksheet to the class. Have students fill in the K and W sections. After showing the video, have students complete the L section and answer the question at the bottom of the worksheet.

Viewing Guide:

We recommend that teachers show the video segment twice: once to allow students to view the video and focus on the issues presented, and once to allow them time to complete the viewing guide. After they complete the viewing guide, allow students a few minutes to work in pairs sharing and verifying answers.

Answers to Viewing Guide

1. licensing
2. occupations
3. safe
4. established players
5. chance

Let People Work

Viewing Guide

Name _____

Date _____

Class _____

Teacher _____

Directions: As you watch the video, fill in the blanks with the correct words.

1. Unfortunately, states have 30,000 _____ rules that take away that chance.
2. Everyone has a right of being able to pursue their own happiness, and what that means is that they have a right to engage in any of the common _____ of life.
3. The idea that anyone would be any less _____ because she moved one chair over and touched their face is absurd.
4. It's certainly convenient that _____ have a law that gets to keep new people that would compete with them, out.
5. Doesn't everybody need a second _____?

Now, take a few moments to reflect on the video and answer the questions below:

What is the purpose of occupational licensing for cosmetologists? _____

Why might the state board refuse to allow someone with a criminal record to practice cosmetology? _____

Why do you think established businesses might favor occupational licensing for their industry?

Discussion and Analysis:

1. Why did Courtney Haveman spend \$6,000 to go to cosmetology school?
2. Why wasn't Courtney allowed to become a cosmetologist?
3. The Pennsylvania cosmetology board says those with a criminal record must demonstrate good moral character to receive a license. Why is good moral character important for cosmetologists?
4. How do you think someone such as Courtney can demonstrate their good moral character?
5. Do you think government should be more forgiving of those with criminal records? Why / Why not?
6. Why is Courtney allowed to perform some tasks in a salon but not others?
7. What is a public interest law firm? Why would they want to help Courtney?
8. Andrew Wade says that this violates Courtney's constitutional rights. How so?
9. Lawyer Andrew Wade said, "Laws like this don't protect the public. They make it less safe." How might such licensing requirements make the public less safe?
10. Have you ever gone to a salon and checked to make sure the person attending to you had a license? How can you find out if someone is a safe and competent worker?
11. Are all licensed drivers good drivers? Are all unlicensed drivers bad drivers? How might that apply to cosmetology licenses?
12. Would you feel comfortable getting your eyebrows tweezed or your hair cut and styled by someone who was not a licensed cosmetologist? Why / Why not?
13. How would you feel if the person had a criminal record?
14. What if cosmetologists voluntarily formed organizations, similar to the Better Business Bureau, to monitor their industry through a rating system, or to promote safe and responsible cosmetology as doctors did with the American Medical Association? Would it be more or less acceptable if it were not the government requiring licenses? Why / Why not?
15. If you could rewrite the law, what changes would you make?

Discuss These Lines from the Video:

1. One time in my life that I felt like a productive member of society, I was proud of myself, people were proud of me. And then it was just like, "you're not good enough still."
2. The supposed purpose of the rule is to protect public health and safety, but it doesn't do that.
3. I'm still allowed to touch clients, just not allowed to do what I went to school to do.

4. The idea that anyone would be any less safe because she moved one chair over and touched her face is absurd. Laws like this don't protect the public; they make it less safe.
5. You can't keep people in poverty forever because of crimes they committed a long time ago.
6. This is wrong. This is years of my life that have been wasted completely when I could be making, you know, a second income for my family.

Quotes for Discussion:

Government licensing closes the door to economic opportunity. Nearly a thousand occupations in the United States exclude people who do not have licenses. Sometimes the licenses cost money. Sometimes they require the applicant to pass complicated tests that have little to do with the job. Sometimes getting a license requires a friend in the business. All those licensing laws do just one thing: keep outsiders out. – Walter Williams

Although [cosmetology and landscape architecture] may not immediately spring to mind when one thinks of public health and safety, they really should: cosmetology professionals across the country undergo rigorous training in proper sanitation measures due to the high risk of infection posed by dirty implements and skin-to-skin contact, and landscape architects are trained in critically important accessibility and environmental safety measures. – Jonathan Brostoff

Occupational licensing laws—in trades like moving companies, realtors, hair dressers, limousine services, beauticians, physical therapy, and on and on—stunt small business start-ups, destroy jobs, and raise prices for lower-income consumers. – Stephen Moore

There could be open wounds. There could be cuts. Pathogens could be transmitted. You know, we have people that are practicing this field that could really, you know, do wonderful things for your appearance and for your face and for your skin, but also could harm you. These regulations are a requirement and a necessity for consumer safety. – Myra Irizarry

There are some professions, of course, where licensing is important. For example: If there's someone out there claiming to be a top heart surgeon whose only qualifications are having played Operation as a child, then I'm going to have a problem with that. I'm definitely going to say that jail time is appropriate in this instance. – Kat Timpf

Activities:

1. Show the class one of John Stossel's other videos about occupational licensing:
 - A) "Eye Test Innovators vs Bottleneckers"
<https://youtu.be/DTgmJqbXg1s>
 - B) "Stop! You Need a License To Do that Job!"
<https://youtu.be/H2qWkoYO5ak>

2. Take Cornell (two-column) Notes as they read one of the following articles, or write a summary of one of the following articles:
 - A) “Occupational Licensing Hurts Just About Everyone, Says White House” by Elizabeth Nolan Brown
<https://reason.com/2015/07/31/white-house-occupational-licenses-report/>
 - B) “Who’s Afraid of Occupational Licensing” by Jonathan Brostoff
https://madison.com/ct/opinion/column/rep-jonathan-brostoff-who-s-afraid-of-occupational-licensing/article_2b1ad474-b80a-5a84-afb7-788ee5fa3e97.html
 - C) “Occupational Licensing Harms Consumers and Producers” by Sheldon Richman
<https://www.aier.org/research/occupational-licensing-harms-consumers-and-producers/>
 - D) “Occupational Licensing is a Bad Idea” by David R. Henderson
<https://www.hoover.org/research/occupational-licensing-bad-idea>
 - E) “Everything You Need to Know About Occupational Licensing” by Jason Bessen
<https://www.vox.com/2014/11/18/18089272/occupational-licensing>
3. Write an essay about occupational licensing in which you answer the following questions: What is occupational licensing? Who should decide whether someone is fit to practice cosmetology or another field? What problems might exist in the licensing system? If most people do not check to make sure their cosmetologist is licensed, how might this bolster the arguments for *and* against occupational licensing?
(Hint: *For* – If customers don’t know whether their cosmetologist is licensed, shouldn’t someone make sure? *Against* – If customers don’t check for licenses, how do they determine they will receive safe, quality service?)
4. Produce a “man-on-the-street” video in which you ask people if they check to make sure that their cosmetologist or barber is properly licensed. Follow up by asking why they do or do not check. In lieu of person-to-person interviews, students can ask their online friends or conduct online video interviews.
5. Produce a “man-on-the-street” video in which you ask people for which occupations government should require licenses? In lieu of person-to-person interviews, students can ask their online friends or conduct online video interviews.
6. Watch “Milton Friedman – Who Benefits from Licensing.” Then, write a short essay in which you explain his argument, apply his argument to Courtney’s situation, and theorize one or more counter-arguments.
<https://www.youtube.com/watch?v=8q71hrwUcu0>
7. The Institute for Justice (IJ) took Courtney Haveman’s case. Read these excerpts from IJ’s 2012 “License to Work” report. Next, research IJ by exploring their website. Finally write a brief report on the organization, why it is interested in licensure, and what it found in 2012.
Institute for Justice Website: <https://ij.org>
Executive Summary: <https://ij.org/report/license-to-work/alternatives-to-licensure/>
Alternatives to Licensure: <https://ij.org/report/license-to-work/alternatives-to-licensure/>

8. A) Watch “Should You Need the Government’s Permission to Work?” Then, create an infographic to distill (identify, isolate, and extract the main thrust of an argument) the argument against licensing.

<https://www.youtube.com/watch?v=Jr8qHv4hCVw>

B) Use statistics from the Institute for Justice’s 2012 “License to Work” report tables to create your own charts and graphs and add words and images to make your infographic stand out.

<https://ij.org/report/license-to-work/tables/>

9. Research the arguments for occupational licensing of cosmetologists and write a rebuttal to the Stossel video. Conclude by offering your opinion on which side has the stronger argument. (Hint: it may be helpful to start by looking for the counter-arguments of those representing licensing boards.)
10. Read the attached excerpt from Milton Friedman’s *Capitalism and Freedom* and produce a brief fact sheet that summarizes the advantages and disadvantages of registration, certification, and licensure.

OR

Read and summarize the excerpt from Milton Friedman’s *Capitalism and Freedom*.

Policy Issues Raised by Licensure – Milton Friedman

(Excerpted from *Capitalism and Freedom* chapter IX)

It is important to distinguish three different levels of control: first, registration; second, certification; third, licensing.

By registration, I mean an arrangement under which individuals are required to list their names in some official register if they engage in certain kinds of activities. There is no provision for denying the right to engage in the activity to anyone who is willing to list his name. He may be charged a fee, either as a registration fee or as a scheme of taxation.

The second level is certification. The governmental agency may certify that an individual has certain skills but may not prevent, in any way, the practice of any occupation using these skills by people who do not have such a certificate....

The third stage is licensing proper. This is an arrangement under which one must obtain a license from a recognized authority in order to engage in the occupation. The license is more than a formality. It requires some demonstration of competence or the meeting of some tests ostensibly designed to insure competence, and anyone who does not have a license is not authorized to practice and is subject to a fine or a jail sentence if he does engage in practice....

[R]egistration may be a means to protect consumers against fraud. In general, liberal principles assign to the state the power to enforce contracts, and fraud involves the violation of a contract. It is, of course, dubious that one should go very far to protect in advance against fraud because of the interference with voluntary contracts involved in doing so. But I do not think that one can rule out on grounds of principle the possibility that there may be certain activities that are so likely to give rise to fraud as to render it desirable to have in advance a list of people known to be pursuing this activity....

Certification is much more difficult to justify. The reason is that this is something the private market generally can do for itself. This problem is the same for products as for people's services. There are private certification agencies in many areas that certify the competence of a person or the quality of a particular product. The Good Housekeeping seal is a private certification arrangement. For industrial products there are private testing laboratories that will certify to the quality of a particular product. For consumer products, there are consumer testing agencies of which Consumer's Union and Consumer's Research are the best known in the United States. Better Business Bureaus are voluntary organizations that certify the quality of particular dealers. Technical schools, colleges, and universities certify the quality of their graduates. One function of retailers and department stores is to certify the quality of the many items they sell. The consumer develops confidence in the store, and the store in turn has an incentive to earn this confidence by investigating the quality of the items it sells.

One can however argue that in some cases, or perhaps even in many, voluntary certification will not be carried as far as individuals would be willing to pay for carrying it because of the

difficulty of keeping the certification confidential. The issue is essentially the one involved in patents and copyrights, namely, whether individuals are in a position to capture the value of the services that they render to others. If I go into the business of certifying people, there may be no efficient way in which I can require you to pay for my certification. If I sell my certification information to one person, how can I keep him from passing it on to others? Consequently, it may not be possible to get effective voluntary exchange with respect to certification, even though this is a service that people would be willing to pay for if they had to. One way to get around this problem, as we get around other kinds of neighborhood effects, is to have governmental certification.

Another possible justification for certification is on monopoly grounds. There are some technical monopoly aspects to certification, since the cost of making a certification is largely independent of the number of people to whom the information is transmitted. However, it is by no means clear that monopoly is inevitable.

Licensure seems to me still more difficult to justify. It goes still farther in the direction of trenching upon the rights of individuals to enter into voluntary contracts. Nonetheless, there are some justifications given for licensure that the liberal will have to recognize as within his own conception of appropriate government action, though, as always, the advantages have to be weighed against the disadvantages. The main argument that is relevant to a liberal is the existence of neighborhood effects. The simplest and most obvious example is the "incompetent" physician who produces an epidemic. Insofar as he harms only his patient, that is simply a question of voluntary contract and exchange between the patient and his physician. On this score, there is no ground for intervention. However, it can be argued that if the physician treats his patient badly, he may unleash an epidemic that will cause harm to third parties who are not involved in the immediate transaction. In such a case, it is conceivable that everybody, including even the potential patient and physician, would be willing to submit to the restriction of the practice of medicine to "competent" people in order to prevent such epidemics from occurring....

The most obvious social cost is that any one of these measures, whether it be registration, certification, or licensure, almost inevitably becomes a tool in the hands of a special producer group to obtain a monopoly position at the expense of the rest of the public.... Once licensure is attained, the people who might develop an interest in undermining the regulations are kept from exerting their influence. They don't get a license, must therefore go into other occupations, and will lose interest. The result is invariably control over entry by members of the occupation itself and hence the establishment of a monopoly position.

Certification is much less harmful in this respect. If the certified "abuse" their special certificates; if, in certifying newcomers, members of the trade impose unnecessarily stringent requirements and reduce the number of practitioners too much, the price differential between certified and non-certified will become sufficiently large to induce the public to use non-certified practitioners. In technical terms, the elasticity of demand for the services of certified practitioners will be fairly large, and the limits within which they can exploit the rest of the public by taking advantage of their special position will be rather narrow....

Name _____

Date _____

Class _____ Per _____

Teacher _____

Let People Work K-W-L Chart

Directions: Complete the **K** and **W** sections prior to watching the video. After you have seen the video, complete the **L** section and answer the two questions below the K-W-L chart.

K	W	L
What I know about occupational licensing:	What I want to know about occupational licensing:	What I've learned about occupational licensing:

After watching the video and discussing it in class, what do you think about occupational licensing laws and opportunities for ex-cons to rehabilitate themselves? _____

Why? _____
