

# THE DIRTY DOZEN

ELIMINATING RED TAPE  
FOR BLUE-COLLAR WORKERS



# THE DIRTY DOZEN

## **ANIMAL MASSAGE THERAPIST**

Solution: Permanently repeal the license.

## **HAIR BRAIDER**

Solution: Repeal the license.

## **SECURITY ALARM INSTALLER**

Solution: Reduce from a license to a certification process.

## **BARBER/COSMETOLOGIST**

Solution: Reduce fees and education requirements, and eliminate the requirement for a high school degree.

## **LOCKSMITH**

Solution: Repeal the license and move to a certification process.

## **MAKEUP ARTIST**

Solution: Repeal the license.

## **MANICURIST**

Solution: Substantially reduce the educational requirements.

## **ATHLETIC TRAINER**

Solution: Merge the boards for athletic trainers and occupational/physical therapists into one entity and reduce the fees.

## **AUCTIONEER**

Solution: Repeal the license, instead requiring auctioneers to carry insurance and provide surety bonds.

## **OPTICIAN**

Solution: Repeal the license and move to a certification process.

## **PEST CONTROL APPLICATOR**

Solution: Repeal the license and move to a certification process.

## **COURT REPORTER**

Solution: Repeal the license.

# BLUE COLLARS,

# RED TAPE

Tennessee prides itself on being a state that values smaller government, less regulation, and respect for individual liberty. Yet, while we have made significant progress in a number of critical policy areas, the Volunteer State's regulation of its workforce continues to be among the most burdensome nationwide.

Occupational licensing is a form of regulation that requires individuals to receive a government permission slip to do certain jobs. Historically, occupational licensing was limited to jobs that directly impacted the health and safety of the general public, but its scope has dramatically widened over the last half-century. A 2015 report issued by the White House found that more than 25 percent of the national workforce must acquire a government license to work, up from just 5% in 1950.<sup>1</sup> Another academic study conducted by economists Morris Kleiner (University of Minnesota) and Alan Krueger (Princeton University) put the current number at closer to one in three.<sup>2</sup> While this ratcheting up of the bureaucratic state is alarming, perhaps even more concerning is the disproportional impact these regulations have upon blue-collar workers.

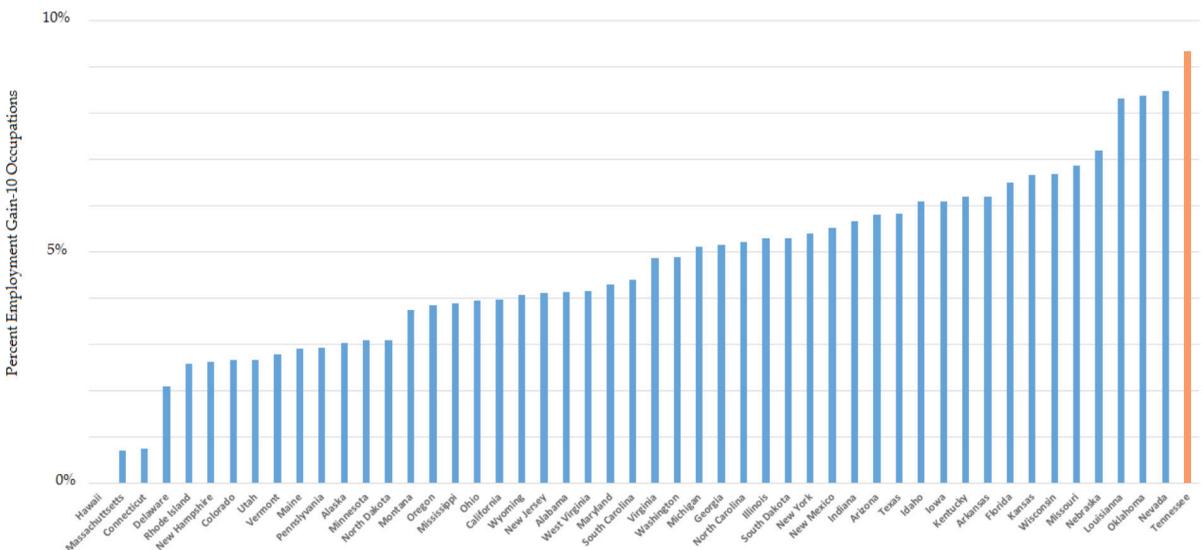
Currently, Tennessee requires an occupational license for 110 different jobs. One must spend an average of 226 days getting an education and then another \$327 in government fees before being allowed to work in one of these occupations. In fact, the state charges nearly twice the national average in fees to aspiring professionals who are predominantly moderate to low-income wage earners. Furthermore, the Institute for Justice reports that Tennessee maintains a number of excessive training requirements compared to other states.<sup>3</sup> Consider the following examples:

- Tennessee auctioneers require two years of training and \$750 in licensure fees every two years. The national average is \$307, and our state is just one of five that requires more than one training year.
- Pest control applicators must have four years of education in Tennessee, while 32 states have no such requirement.

- Manicurists must train for 140 days, compared to the national average of just 87.
- Despite other states, including neighboring Missouri and Kentucky, not requiring a license for alarm installers, Tennessee instead chooses to license and heavily regulate the industry by requiring two to five years of training depending on educational experience, a minimum \$375 fee, and a minimum age of 18.

A recent academic study conducted by Dr. Will Flanders and Collin Roth at the Wisconsin Institute for Law & Liberty studied the following 10 professions and the impact that excessive licensing regulations had upon opportunity for employment: aestheticians, athletic trainers, cosmetologists, manicurists, veterinary technicians, emergency medical technicians (EMTs), private detectives, pest control applicators, locksmiths, and massage therapists. Flanders and Roth found that Tennessee had the most to gain of any state in the nation—projecting a rise in employment of over nine percent—by simply reducing unnecessary barriers to entry for these professions.<sup>4</sup>

**Estimated Employment Increase Through Reduced Licensure Requirements<sup>5</sup>**



## BLUE COLLAR IMPACT OF UNNECESSARY LICENSING BURDENS

Beyond the impact that onerous licensing regulations have upon employment opportunities in the state, other studies have found that such restrictions also inhibit

economic mobility, particularly for low-income entrepreneurs and minority workers. Morris Kleiner has asserted that excessive licensing may increase wage inequality by prohibiting individuals from entering higher-earning occupations, serving to “exacerbate income dispersion in the United States.”<sup>6</sup>

Beyond the wage disparity that Kleiner noted, there is further evidence of a broader consequence for would-be employers and small business owners. A 2015 study produced by the Goldwater Institute, based on aggregate data from the Kauffman Foundation and Institute for Justice, found that “states that license more than 50 percent of the low-income occupations had an average entrepreneurship rate that was 11 percent lower than the average for all states, and the states that licensed less than a third had an average entrepreneurship rate that was about 11 percent higher.” Clearly, these types of occupational regulations impact blue collar opportunities for the individual worker as well as the state’s entrepreneurial economy.

## MEET MARTHA STOWE

Martha Stowe has been around horses for as long as she can remember. She grew up working with the horses on her grandparents’ farm in Colorado and has run Blazer Farms in Franklin, Tennessee for nearly two decades. A few years ago, Martha went for a massage to treat an old neck injury she sustained in a horseback riding accident and discovered a new technique called Myofascial Release (MFR). MFR is a safe and very effective technique that involves gently applying sustained pressure into the connective tissue. She started researching the practice and discovered that MFR was also very beneficial for horses, so she decided to take a certification class and start using the technique on the horses at her farm. The results were astounding. Martha’s horse massage business quickly took off with word of mouth spreading from her boarders. When Martha’s husband was unexpectedly deployed

to Iraq, she took her business full time and became the sole breadwinner for her family. Martha became the go-to expert on the subject of horse massage, with vets even frequently referring their patients to her and people traveling from miles around to see her.

Then it all came crashing down. Out of the blue, Martha received a letter in the mail threatening her with fines and even jail time should she continue working. According to the state veterinarian board’s regulations, she had to either become a veterinarian or go work for one to continue her career. Martha was crushed and terrified. She had no idea what to do. She couldn’t afford to go to school for four years and spend \$100,000 to become a veterinarian, and even if she did, she would not learn anything about massage therapy in veterinary school. She also didn’t want to go work

## A TENNESSEE BLUEPRINT FOR OCCUPATIONAL LICENSING REFORM

For an individual to be economically mobile and avoid poverty, access to gainful employment is an essential ingredient. Thus, state leaders must embrace reforms that eliminate barriers to entry into the workforce, particularly for low-wage earners and entrepreneurs. Some licensing requirements themselves must be outright repealed, while in other cases the red tape should be slashed, such as reducing the number of educational hours required, fees levied, or time of training mandated prior to entry.

Lawmakers should seek to impose the least restrictive method of regulating those in an occupation that also allows for the proper amount of consumer protection. Less onerous regulatory options could include certification, registration, bonding and insurance, and inspections, to name a few. For example, we inspect kitchens, but we don't require chefs to be licensed. The below pyramid developed by the Institute for

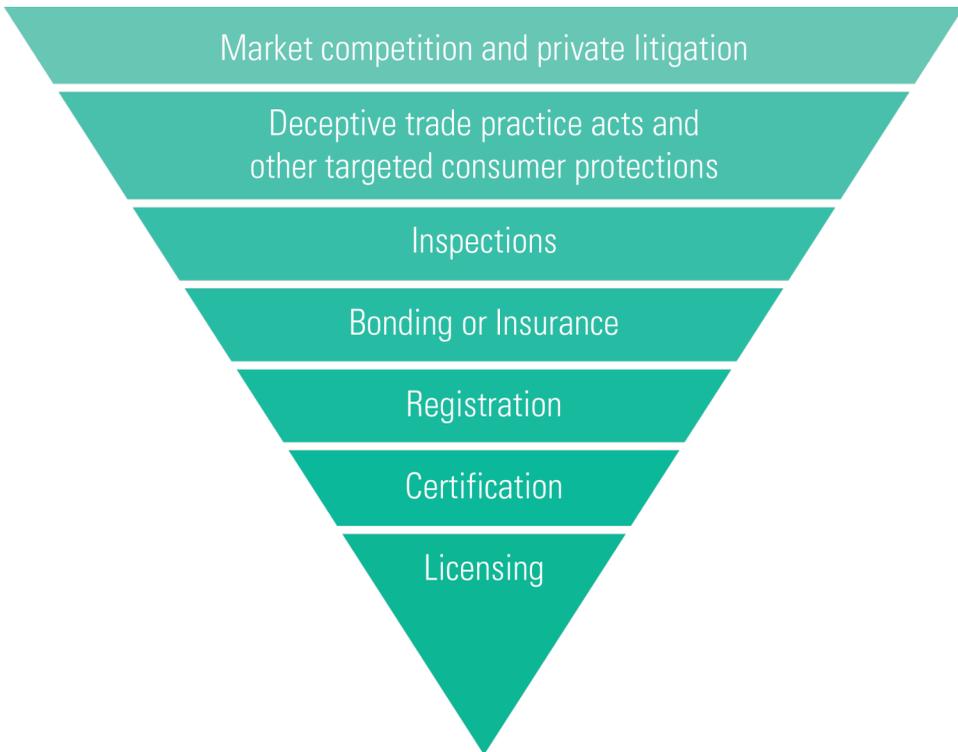


for a veterinarian. She loved being an entrepreneur, setting her own hours, and caring for her clients. Working for a veterinarian would mean a huge loss in income and freedom.

Thankfully, Martha found the Beacon Center, which filed a lawsuit on her behalf against the veterinarian board's regulation. This caught the attention of legislators, who stepped in and temporarily struck down this unjust rule so that Martha could get back to work. Martha was fortunate, but many others like her are not and are forced out of a good job they are qualified for due to senseless government burdens.

Justice illustrates how a state might protect health and safety, from the least restrictive means at the top of the inverted pyramid to the most restrictive at the bottom.

While many of Tennessee’s occupational licensing regulations are problematic, we realize that lawmakers and boards will need to take a systematic approach to prioritizing those cases in which the requirements are clearly a distortion of necessity and authority. The following list of 12 occupations provides a place to start, as we begin to unravel the burdensome red tape that ensnarls Tennessee’s blue-collar workers.



## THE DIRTY DOZEN



### **ANIMAL MASSAGE THERAPIST**

A 2012 rule passed quietly by the state veterinary board states that those individuals wishing to practice massage therapy on animals are required to obtain a full veterinary license.

Massage therapy is a practice dating back to biblical times and has been used by many ancient

civilizations, including India, Egypt, Rome, Greece, and China. Massage therapy can address issues such as rehabilitation from injuries, preventative care, sleep aid, pain reduction, increased blood flow, detoxification, slowing of the aging process, reduction of fatigue, stress release, and alleviation of anxiety and depression.

Just as humans may receive these health benefits through massage treatment, so too can animals. While individuals may receive independent certifications to practice animal massage therapy, Tennessee and a number of other states require that they also be licensed veterinarians. This is despite the fact that many veterinarians actually refer clients to independent massage therapists. Nevertheless, animal massage therapists must still obtain the same four-year college degree, usually costing six figures, despite the fact that these individuals do not practice, diagnose, or dispense medical advice or treatments. Should they not wish to practice veterinary medicine, their only other option is to work directly underneath a licensed veterinarian, which severely limits the amount and type of patients they may see.

In the 2017 legislative session, state lawmakers temporarily halted the veterinary board's rule, allowing animal massage therapists to continue practicing without a veterinary license while lawmakers and the board study the issue. While minimal regulation of the practice may be warranted, the General Assembly should refuse to install yet another costly, onerous licensing law that prevents animal massage therapists from serving their customers and caring for animals. Recently, the Federal Trade Commission weighed in on the issue encouraging the legislature "to consider making the 2017 exemption permanent," further noting that "in our experience, these kinds of reforms can reduce barriers to entry, improve competition, and thereby deliver substantial benefits to a state's consumers."<sup>7</sup>

**Solution: Permanently repeal the license.**



### **HAIR BRAIDER**

Currently, those who braid hair must obtain a license from the state cosmetology board, and that is only after obtaining 300 hours of training and paying a fee to the state. This is despite the fact that braiders do not cut hair, dye hair, nor do they do any other activity that might warrant government oversight. Their trade is an all-natural one that has no justification for such a costly licensing regime.

In 2016, Iowa, Nebraska, and Kentucky deregulated hair braiding, bringing the number up to 23 states that do not require a license to braid hair. The Tennessee legislature passed a similar reform in 2017 by repealing a law requiring shampooers to be licensed by the cosmetology board. They should do the same for hair braiders, as the licensing of both industries is an example of unnecessary government overreach.

**Solution: Repeal the license.**

# MEET ELIAS ZARATE

Elias Zarate knows what it means to overcome obstacles. When he was just 11 years old, his mother was killed by a drunk driver in a tragic car accident, which nearly killed Elias as well. He sustained multiple broken bones and was in a coma, but he pulled through. Unfortunately, the wreck continued to impact his family, and when he was 13 his father split town, leaving Elias homeless. Elias had learned to cut hair when he was 11 and began using his craft to make money. He also worked two other jobs to support himself while he attempted to finish high school.

When he was a senior in high school, he had to drop out to care for his two younger siblings who had been left in the care of their grandparents. He willingly gave up his education to provide for theirs, and supported them through their graduations.

Elias was never able to go back to school.

But he continued to hone his skill as a barber over the years and managed to land a job at one of the high-end shops in the Memphis area. He was ecstatic. Now married and with a newborn daughter, Elias was finally working a job he actually enjoyed, and he was able to support his young family.

When he was asked to produce his license for his new job, he had no idea what to do. He was not aware that he needed a license to do a job he had been practicing for over a decade, and he didn't know how to get one. A friend told him they could help and connected him with someone who sold him a license. Unfortunately, the license turned out to be fake, and Elias was fined thousands of dollars and was prohibited from barbering.

He attempted to explain the situation to a disciplinary committee for the barber



SECURITY ALARM INSTALLER

## SECURITY ALARM INSTALLER

Currently, security alarm installers must complete between two and five years of training depending on the level of education they have received, take an exam, pay a minimum of \$375 in fees, and be at least 18 years of age.

Alarm systems are certainly complicated products that require a high level of expertise to install. Yet, as with many professions, commonsense would suggest that such knowledge is best acquired through tutelage and on-the-job training with advanced operators. However, Tennessee actually punishes individuals entering the industry that have significant training but failed to obtain a relevant four-year college degree. While it takes two years of experience to become a licensed alarm installer if one has that advanced level of education, it takes double the time if an individual only obtained an associate's degree, and a full five years if done as an apprentice. Additionally, once an individual is finally licensed, that person must complete eight hours of

A close-up, low-angle shot of a person's head and neck from behind, being shaved with electric clippers. The person is wearing a dark, collared shirt. The lighting is dramatic, with strong highlights on the clippers and the person's skin, and deep shadows elsewhere. The background is dark and out of focus.

board, but was met with unsympathetic ears. Not only did they not reduce his fines, they also billed him additional court costs.

As if that wasn't bad enough, Elias also learned that in order to obtain a license the legal way, he would not only have to go to barbering school, he first would have to go back and complete his high school degree before he could even be accepted. Elias is just another example of a Tennessean ready and willing to work, but shut out of a job for which he is qualified by senseless red tape.

mandated continuing education courses annually. Understandably, such barriers act as a deterrent for otherwise capable individuals to enter this field.

Rather than impose these arbitrary and nonsensical roadblocks, the state should instead consider the alternative forms of regulation that still allow for skilled individuals to operate. Examples include insurance, bonding, and leveraging the civil court process. Alarm companies must already maintain bonds of \$100,000 for property damage and up to \$300,000 for bodily injury. This is an example of an effective regulation that protects consumers' safety without overly burdening those seeking to serve those consumers.

Alarm installers should not need a license to work. Rather, at most this industry should incorporate a certification process that recognizes those meeting certain benchmarks of professional expertise without obstructing other skilled laborers from entering the field.

**Solution: Reduce from a license to a certification process.**



## BARBER/COSMETOLOGIST

Currently, barbers must obtain a high school degree, complete 350 days of training, take two exams, pay \$200 in exam and registration fees, and be at least 17 years old before they are allowed to work. Likewise, cosmetologists must those same fees, complete with 350 days of training, and take two exams (yet do not need the high school degree).

Acquiring barber and cosmetology skills can be done through a variety of avenues, but mandating that aspiring barbers have high school degrees is unreasonable. Many individuals, for one reason or another, never obtained one. Does a failure to do so automatically mean they are not skilled enough to service hair? These requirements also have implications in other areas of society. Inmates in the criminal justice system, who many times entered as a juvenile and failed to complete their high school educations, are often given the opportunity to become highly skilled at hair and make-up while serving their sentences. When these individuals reenter society, should they be precluded from access to gainful employment using their marketable, acquired skills?

We need to reform this process by reducing the costly fees required for entry and eliminating the arbitrary requirement that barbers obtain a high school degree.

**Solution: Reduce fees and education requirements, and eliminate the requirement for a high school degree.**



## LOCKSMITH

Currently, locksmiths must pay \$275 in entrance fees, complete 30 hours of education, 12 hours of continuing education every two years, and have two years of training experience.

Anyone who has ever been locked out of their car or their home can recall the agonizing tick-tock of the clock as you waited impatiently for what seemed like hours to be reunited with your belongings. Locksmiths provide a vital service. It would seem as though states would encourage trained individuals to enter the field, which would help to address wait times and improve customer satisfaction. In fact, every minute that an individual must spend outside their home or loitering by a vehicle makes them vulnerable. Yet, rather than exhibit true concern for consumer protection by acknowledging and addressing these unintended consequences, Tennessee's licensure requirement for becoming a locksmith is both unnecessary and counterproductive. In fact, Tennessee ranks as the second worst state in the nation for its locksmith licensing red tape.

Five of the eight states that surround Tennessee (Georgia, Mississippi, Arkansas, Missouri, and Kentucky) manage to sufficiently protect consumer safety without requiring a license for locksmithing. Instead, other mechanisms ensure public safety, such as background checks. These states have proven that there are less restrictive

means to regulate locksmiths short of requiring a burdensome licensing process. Tennessee should shift to a certification process recognizing advanced qualifications, while allowing skilled workers to operate with basic security measures such as background checks that better protect consumers than the mountain of red tape currently in place.

**Solution: Repeal the license and move to a certification process.**



### **MAKEUP ARTIST**

Currently, makeup artists must complete at least 750 hours of instruction, pay \$200 in fees, and take two exams before they are allowed to work.

Tennessee, and particularly Nashville, provides some of the best opportunities for makeup artists in the country. In fact, metropolitan Nashville has become the fifth largest region nationwide for jobs in the makeup artist industry. Thanks to the Tennessee capital’s burgeoning film and performing arts scene, coupled with acting as the home base for the music industry, makeup artists can build thriving, successful businesses.

However, the Volunteer State’s heavy regulation of the industry threatens the hope of economic prosperity awaiting these talented individuals on the other side. To practice makeup artistry, one must become a licensed aesthetician or cosmetologist, both of which require lengthy, state-approved educational curricula and high entry fees. Rather than creating an environment that empowers these individuals to utilize their special skills and talent, the state is instead acting as an inhibitor of economic opportunity.

**Solution: Repeal the license.**



### **MANICURIST**

Currently, manicurists must complete 600 hours of training, pay \$200 in fees, and take two exams. Tennessee touts the third-highest average manicurist salary nationwide. Similar to the makeup artistry, there are significant opportunities for these talented individuals to establish highly successful practices.

Yet, as is the problem in a number of other industries, the regulatory state surrounding the licensure process for manicurists presents robust and unnecessary hurdles. Once an individual completes the 600 hours of mandated training, he or she must also take two exams on “theory” and “practice” before forking over hundreds of dollars in licensing fees to obtain government permission to work. Those who have been licensed in other states and wish to move to Tennessee must prove that their training equaled at least 600 hours, despite state regulations varying significantly, or show that they have at least five years of experience. These

requirements are both arbitrary and unnecessary.

While all 50 states license manicurists in some form, Tennessee's red tape is among the most extensive nationwide.

**Solution: Substantially reduce the educational requirements.**



**ATHLETIC TRAINER**

### **ATHLETIC TRAINER**

To be a licensed athletic trainer in Tennessee, applicants must graduate with a degree in athletic training and pass a \$300 national certification exam. Afterwards, applicants must pay \$200 and pass a Tennessee licensure examination for licensure with a biennial renewal fee of \$150.

Licensed athletic trainers carry out the practice of prevention, recognition, evaluation, management, disposition, treatment, or rehabilitation of athletic injuries. Athletic trainers are authorized to use techniques like heat, light, sound, cold, electricity, or mechanical devices for their treatment and prevention services.

What athletic trainers are not authorized to do is treat the same injury outside of an athletic context. Twist your ankle going down the stairs? Athletic trainers cannot help you. Twist your ankle playing in your Friday softball league? They've got you covered. Think of them as a specialized physical therapist.

If athletic trainers are essentially a subset of physical therapists, they should be governed by the same rules, regulations, and agencies. Yet, Tennessee has a regulatory board for Athletic Trainers and a separate one for Occupational and Physical Therapists. We do not need a licensing Board of Athletic Trainers charging Tennessee residents over \$100,000 in fees last year and a Board of Occupational/Physical Therapy charging over \$500,000 last year to accomplish such similar missions.

**Solution: Merge the boards for athletic trainers and occupational/physical therapists into one entity and reduce the fees.**



**AUCTIONEER**

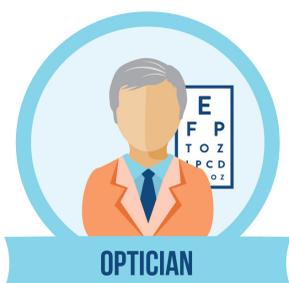
### **AUCTIONEER**

Currently, auctioneers must obtain a high school diploma, serve as an apprentice for two years, pay \$750 in fees, and take two exams.

Despite their role as brokers and dealmakers, auctioneers must undergo one of the costliest licensure processes in the state. Comprised within the licensing fee are the \$350 fees to operate as an apprentice and the \$400 to enter the industry after training is completed. Yet, this exorbitant cost pales in comparison to the time it takes for individuals to spend training before

becoming licensed. This is even more stark considering that it takes just six months of training to become an EMT, a job that has an immediately apparent impact on public health and safety. There is absolutely no reason it should take four times as long to become an auctioneer than it does an EMT.

**Solution: Repeal the license, instead requiring auctioneers to carry insurance and provide surety bonds.**



### OPTICIAN

To become an optician, one must complete two full years of training, pay \$278 in fees, and take three exams.

Opticians fit individuals for glasses. They do not perform exams, retinal assessments, or even make any medical recommendations. Yet, like auctioneers, it takes four times as long to obtain an optician

license than it does to become a licensed EMT.

A majority of states don't require a license to be an optician at all, exhibiting that a licensure requirement is unnecessary for ensuring public health or safety. Instead, by allowing for board certification of those opticians that obtain additional training and education, the state can still recognize advanced practitioners without inhibiting individuals from entering the field. Clearly, 28 states can protect consumers' eyesight without requiring a license for opticians; Tennessee should, too.

**Solution: Repeal the license and move to a certification process.**



### PEST CONTROL APPLICATOR

To operate as a pest control applicator, one must hold a bachelor's degree in certain fields or spend two entire years working under an already-licensed applicator, pay \$150 in fees, and take two exams.

Tennessee's onerous regulation of this industry far exceeds any other state in its barriers to entry. In fact, it takes longer to become a pest control

applicator in the Volunteer State than any other state in the nation barring Louisiana.

While all 50 states require a pest control license, the vast majority do not require any formal education or training before issuing the license, proving that Tennessee's extent of red tape is arbitrary and unnecessary. Substantially reducing these barriers—or even better, moving to a certification process in lieu of a government license—will still enable the state to regulate the industry without creating unnecessary barriers to entry into the field.

**Solution: Repeal the license and move to a certification process.**



## COURT REPORTER

Currently, court reporters must pay a \$50 license application fee to the state, \$200 for the annual renewal of the license, receive a certification from at least one of three recognized certifying associations, and complete a minimum of 20 hours of continuing education per year (though this could rise depending on the certifying association's requirements).

According to one cursory analysis, at least 19 states allow people to become court reporters without a license, showing that there is little to no risk in unlicensed reporting.<sup>8</sup> Many of the states that don't demand government permission to work as a court reporter are Tennessee's neighbors, specifically Kentucky, North Carolina, and Virginia, with an optional certification in Arkansas, meaning those who move here from those states have the extra burden of taking a test and paying for a license to do the exact same job they were doing elsewhere.

While many licensing regimes are arbitrary in nature, this one may take the cake. Individuals providing services to the state's criminal courts receive an exemption. This means that when an accused person's constitutional rights and even freedoms hang in the balance, those providing services to our criminal courts may be operating without a license. Clearly this regulation did not derive from concern for public health or safety, which should be the threshold for all of Tennessee's licensing laws.

**Solution: Repeal the license.**

# CONCLUSION

As we've established, state occupational licensing regimes have burgeoned over the last half-decade well beyond the concept's intended function and purpose. There are many layers of reform needed, ranging from repealing entire licensing laws to reforming the costs and educational hours required to enter certain professions. The Tennessee General Assembly must be more vigilant in guarding against unnecessary expansions of state boards' power to regulate industries, particularly those that have very little impact on consumer health and safety.

By starting with this list of the Dirty Dozen, the state can begin the long and arduous process of scaling back those regulations that are either unnecessary or overly burdensome. In doing so, lawmakers can restore Tennesseans' right to earn a living, expand entrepreneurship, and create greater opportunities for all Tennesseans—and particularly blue-collar workers—to move up the economic ladder.

# ENDNOTES

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