

Deregulation debates in Texas: assessing the impact on barbering and cosmetology occupational licensing

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ABSTRACT

The Texas Department of Licensing and Regulation (TDLR) is responsible for issuing and regulating occupational licenses for a variety of professions and industries in the state, including barbering and cosmetology. TDLR plays a key role in safeguarding the health and safety of Texans seeking barbering and cosmetic services by ensuring that professionals can identify skin and hair ailments, understand sanitary practices, and otherwise avoid harm to their patrons. Currently, to become a licensed barber or cosmetologist in Texas, an individual must complete 1,000 classroom hours of curriculum-driven training at an accredited school and pass both written and practical examinations. The department also enforces regulations and investigates consumer complaints to maintain individual accountability. However, several bills aimed at deregulation have been introduced in the past four Texas legislative sessions, with proponents citing these licensing requirements as an unnecessary economic burden.

Given that Texas leads the nation in the employment of barbers and cosmetologists, as per the U.S. Bureau of Labor Statistics (2023), a critical examination of the merits and drawbacks of deregulation is imperative. This policy analysis paper details the history and function of licensing for barbers and cosmetologists in Texas, explores the trend of deregulation of the professions, and discusses the practical implications of delicensing for practitioners and business owners in the state, and the broader industry.

Keywords, barber, cosmetologist, licensing, deregulation, regulation, legislation

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INTRODUCTION

Occupational licensing serves as a regulatory framework aimed at ensuring the efficiency and accountability of professionals in various fields. In the state of Texas, the Department of Licensing and Regulation (TDLR) is tasked with overseeing this important function for various industries, such as barbering and cosmetology. It is the TDLR that sets and enforces the educational and examination requirements for professionals in these fields, thereby striving to maintain a high standard of service quality, health, and safety for the general populace (TDLR, n.d.).

Texas holds a significant position in this discourse as it leads the United States in the employment of barbers and cosmetologists, according to the U.S. Bureau of Labor Statistics (2023). As such, any shifts in the regulatory landscape in Texas could have notable ramifications both within the state and potentially as a precedent for the broader industry. Several legislative attempts aimed at deregulating and delicensing these professions have been introduced in the last four Texas legislative sessions. Advocates for deregulation contend that the existing licensing requirements pose an unnecessary economic burden, raising critical questions about the equilibrium between regulation and economic freedom.

Considering this ongoing debate, this policy analysis paper aims to critically evaluate the history, role, and efficacy of the licensing requirements for barbers and cosmetologists in Texas. Furthermore, the paper will explore the growing trend towards deregulation, dissecting its merits and drawbacks. Lastly, the paper will discuss the practical implications of deregulation for various stakeholders, including practitioners, business owners, and the broader cosmetology industry within the state of Texas. Through this analysis, the paper aims to contribute to a more nuanced understanding of the complexities involved in occupational licensing and its prospective deregulation.

The Barbering and Cosmetology Industry in Texas

The barbering and cosmetology industry in Texas is a major player in the state's economy, significantly contributing to the service sector. Governed by the Texas Department of Licensing and Regulation (TDLR), this industry encompasses a wide array of services that impact the lives of nearly every Texan. These services include hair treatments such as cutting, coloring, and styling, facial grooming like beard and mustache care, skin care treatments, hair removal, nail treatments, and specialized services like eyelash extensions.

Economically, the industry's impact in Texas is huge. There is a significant demand for barbering and cosmetology services in Texas, with haircut prices surpassing the national average (Carpenter, 2023a). Though industry statistics at the state-level are not publicly available, if each of the more than 30 million people who live in the state received a single haircut at the average price, it would add up to roughly \$2.7B in revenue. What's more, the financial scope of the industry extends beyond haircuts, with hair coloring and other intricate treatments contributing significantly to overall revenue. The costs of these services are influenced by factors such as salon location, stylist experience, and treatment specifics (Carpenter, 2023b).

In terms of workforce demographics, the median pay in 2022 for professionals in this sector was \$33,400 per year or \$16.06 per hour, with barbers earning a median hourly wage of \$16.82 and hairdressers, hairstylists, and cosmetologists earning \$16.01 per hour (U.S. Bureau of Labor Statistics, 2023). Furthermore, the industry is expected to grow by 8 percent from 2022 to

2032, with about 89,400 job openings expected annually over this period (U.S. Bureau of Labor Statistics, 2023).

The broader economic context highlights that the average woman in Texas will spend approximately \$55,000 on grooming in her lifetime, often exceeding this average in comparison to other states (Ferguson, 2017). The salon industry's revenue was estimated at \$215.65B in 2022 and is projected to reach \$383.8B by 2030 (Jovanovic, 2023). The U.S. hair color market, valued at more than \$1.80B in 2015, is also expected to see considerable growth in the upcoming years (Castillo, 2023; The Insight Partners, 2022).

Historical Overview of TDLR's Role in Barbering and Cosmetology

The Texas Department of Licensing and Regulation (TDLR) began as the Texas Bureau of Labor Statistics in 1909, tasked with collecting and reporting statistical data about labor and industry in Texas (TDLR, n.d.-b). Over time, the Bureau expanded its role to administer and enforce various labor laws (TDLR, n.d.-b).

In 1973, the Bureau transitioned into the Texas Department of Labor and Standards, and by 1989, it was renamed TDLR, establishing a Commission of Licensing and Regulation as its governing body (TDLR, n.d.-b). The regulation of barbers in Texas initiated in 1929 with House Bill 104, and cosmetologists in 1935 with House Bill 189 (TDLR, n.d.-b). These professions were initially managed by separate boards.

A significant change came in 2005 with Senate Bill 411, transferring the barbering and cosmetology programs to TDLR (TDLR, n.d.-b). The consolidation of these programs continued with the enactment of House Bill 1560 in 2021, aimed at streamlining TDLR's services (TDLR, n.d.-c). This bill required TDLR to create new administrative rules for the unified barbering and cosmetology program by September 1, 2023.

Current Licensure Requirements and Rationale

Attaining licensure as a barber or cosmetologist in Texas is an intensive process requiring candidates to dedicate nine to eighteen months to complete a comprehensive educational program. This program encompasses not only the artistry of hair styling but also a rigorous curriculum that includes infection control, general anatomy and physiology, recognition of skin disorders and diseases, hair and scalp disorders, chemical services, and fundamentals of chemistry and electricity. The curriculum further delves into hair and scalp treatments, histology, hair replacement and coloring techniques, and, critically, the quintessential skills of haircutting and styling. Completion of the requisite 1,000 classroom hours qualifies students for a licensing examination to assess their acquired competencies (TDLR, n.d.-d).

The scope of the barbering and cosmetology industry extends well beyond mere hair manipulation. Vital to these roles are health and sanitation protocols, particularly in barbering practices such as men's shaving, which involves the use of straight razor blades. The handling of such equipment demands acute knowledge of infection control and proper response to blood spills, to safeguard against the transmission of blood-borne pathogens including hepatitis B, C, and HIV (Scali-Sheahan et al., 2017).

Estheticians, as specialists within the cosmetology sector, provide a range of skin treatments and facials. Estheticians often further their expertise in areas like waxing, massages, microdermabrasion, and chemical peels. Amato et al. (2022) emphasize the necessity for

estheticians to have a profound understanding of anatomy and physiology. This knowledge enables them to comprehend how a malfunction in one body system can manifest through the skin. Furthermore, it is essential for them to evaluate the holistic impact of their services on various bodily components including tissues, organs, and systems. This comprehensive understanding aids in developing effective treatment plans and recommending suitable products, considering the intricate nature of bodily systems.

Additionally, the rigorous training undergone by estheticians is critical in enabling them to identify contraindications before administering treatments. Such training ensures the prevention of adverse reactions in individuals with certain medical conditions, such as skin diseases, metal bone pins, pacemakers, epilepsy, allergies, and specific conditions like pregnancy, thereby safeguarding client health and well-being, as highlighted by Amato et al. (2022).

The handling of medical-grade skin care products and hair color formulations, which are complex chemical mixtures, requires licensed professionals to make informed decisions. The ingredients, including alkanolamines, ammonia, formaldehyde, and quaternary ammonium compounds, pose significant risks if mishandled (Scali-Sheahan et al., 2017). Professionals must understand chemical formulations, hair structure, color laws, and haircoloring techniques to ensure successful outcomes, considering factors such as hair elasticity, texture, density, porosity, and natural color (Scali-Sheahan et al., 2017). Knowledge of common ingredients, many of which are listed by the United States Pharmacopeia (USP), is essential for understanding their origins and ensuring safety in use.

Barbering and cosmetology practices are regulated by federal and state agencies to maintain workplace safety standards. For example, licensed practitioners are trained in proper infection control methods, a two-step process that involves cleaning and then disinfecting with an Environmental Protection Agency (EPA)-registered disinfectant (Scali-Sheahan et al., 2017). The Occupational Safety and Health Administration (OSHA), concerned with the safety of employees and consumers, requires beauty salons to keep detailed records, and practice strict protocols for the use and storage of chemicals (Scali-Sheahan et al., 2017). This includes an effort by OSHA to combat worker and consumer exposure to formaldehyde, which is a known carcinogen that can cause severe reactions in the skin, eyes, and lungs (Occupational Safety and Health Administration, n.d.). In the context of nail services, sterilization of tools is paramount to prevent infections, for which autoclaves are instrumental. The operation and significance of autoclaves are integral to the curriculum, ensuring that professionals are well-versed in best practices for sterilization. Utilization of autoclaves for tool sterilization, emphasizing the prevention of bacterial, fungal, and viral infections, is a critical component of the safety protocols taught in cosmetology and barbering schools (Scali-Sheahan et al., 2017).

While the existing licensure framework for barbers and cosmetologists in Texas establishes a comprehensive set of standards to ensure professional proficiency and public safety, the subsequent section will explore contrasting legislative efforts aimed at dismantling these regulatory structures.

Deregulation Efforts and Rationale

In recent years, Texas has witnessed a significant movement toward the deregulation of occupational licensing, particularly in the barbering and cosmetology professions. This trend is evident in a series of bills introduced to the Texas legislature, which sought to reduce or

eliminate regulatory requirements for entry into these industries. The importance of these regulations necessitates continuous dialogue on legislative reform and awareness of the ratification processes.

The 85th Texas Legislature (2017) passed several bills impacting the barbering and cosmetology fields. HB 2739 focused on the regulation of barber and beauty schools teaching barbering or cosmetology. HB 3307 excluded threading from the practices of barbering and cosmetology. Additionally, HB 2407 notably reduced the required number of hours in cosmetology school from 1,500 to 1,000.

During the 86th Legislature in 2019, HB 1705 was introduced by Representative Matt Shaheen. This bill initially aimed to deregulate the barbering and cosmetology professions in Texas by removing existing licensing requirements. Shaheen's rationale for the bill was to enhance employment opportunities by eliminating what he viewed as unnecessary occupational licenses. He emphasized his commitment to public safety, supporting occupational licenses crucial for health, safety, and welfare, but suggested that the field of cosmetology was one where consumers could effectively choose quality service providers without significant health risks. The bill was intended to reduce entry barriers for low-income Texans into these professions, allowing current students to quickly enter the workforce, and preventing future students from incurring substantial debt due to state licensing requirements.

However, the trajectory of HB 1705 shifted following constructive feedback from industry professionals and consumer constituents. This dialogue brought to light concerns regarding the potential implications of deregulation on industry standards and public safety. Consequently, on April 3, 2019, Shaheen announced a revised approach to the bill. Instead of eliminating licensing requirements, the updated HB 1705 proposed a study by the state licensing agency to evaluate specialty licenses in the cosmetology and barber fields (Texas House of Representatives, 2019). The aim was to determine an appropriate level of training that would balance the protection of public health and safety with the reduction of employment barriers. This amendment to the bill was a response to the insights and concerns raised by stakeholders, reflecting a legislative process responsive to constituent input (Texas House of Representatives, 2019). It represented a more measured approach, focusing on refining and potentially streamlining the licensing process while considering the feedback from those directly affected by these regulations. Ultimately, despite these amendments and the ensuing dialogue, HB 1705 did not secure sufficient legislative support to pass, reflecting the complexities and challenges inherent in balancing regulatory reforms with public safety concerns.

The 87th Legislature (2021) witnessed significant changes with by passing HB 1560, authored by Sen. Dawn Buckingham and Rep. Craig Goldman. This bill consolidated the barbering and cosmetology programs, merged certain licenses, certifications, and permits, and eliminated the barber and cosmetology instructor license.

Most recently, the 88th Legislature (2023) passed SB 1120, authored by Sen. Charles Schwertner and Rep. Ken King. This legislation prohibited certain practices by barbers or cosmetologists, such as making incisions into the dermis or using prescribed medical devices. These legislative actions, notably HB 2407 and HB 1560, are part of a wider trend towards mitigating the economic burdens associated with licensing in the barbering and cosmetology sectors. This trend is reflective of a nationwide movement towards deregulation in various occupational fields (Thorton & Timmons, 2015). However, it is essential to consider the original intent of HB 1705, which proposed a near-complete deregulation of these professions. Such a sweeping approach risked unintended consequences, potentially compromising public safety and

industry standards. This highlights the importance of an incremental approach to reducing economic barriers, one that carefully balances the need to ease entry into these professions with the imperative to maintain essential safety and quality standards. HB 1560, enacted on June 15, 2021, exemplifies this balanced approach, streamlining licensing processes and reducing administrative complexities, while still upholding the safeguards necessary to protect public health and sustain industry integrity.

Marcus (2019) reports that deregulation bills are written to suggest that it would reduce barriers to entry in the industry. Conversely, Marcus (2019) advises that deregulation would decrease pay and dilute the profession because of the flood of people that would be able to easily enter the field. Similarly, Nunn (2016) reports that occupational licensing protects professionals and gives them a competitive advantage. Licensing creates higher wages, better working conditions, and lower unemployment in the industry (Nunn, 2016). In addition, Nunn's (2016) research strengthened the argument that licensed workers have increased chances of finding and retaining employment.

Thornton & Timmons (2015) contend that deregulatory efforts are instrumental in reducing the inordinate financial commitments required for licensing. Concurrently, Timmons and Konieczny (2017) suggest that eradicating licensing barriers may lead to an increase in the number of establishments, thereby fostering opportunities for small business ownership. They further argue that licensing may perpetuate not due to consumer welfare enhancement but due to the advantages it confers to established practitioners by erecting entry barriers. This posits that licensing requirements could dissuade individuals from pursuing higher professional standards.

Stakeholder Perspectives and Implications of Deregulation

The debate around deregulation in the barbering and cosmetology industries in Texas includes diverse perspectives from practitioners, business owners, and consumers. These viewpoints are essential to understand the potential implications of deregulation on public health, service quality, and the workforce in the industry. Studies like those by Thornton and Timmons (2015) provide insight into the economic impacts of deregulation. They show that in Alabama, the only state to have deregulated and then re-regulated barber licensing, such changes led to fluctuations in earnings and the number of barbershops. The reinstatement of licensing improved pay but reduced the number of shops (Thornton & Timmons, 2015). This suggests that deregulation can have complex economic effects.

Concerns about public health and safety are also prevalent among licensed professionals in the industry. They highlight the importance of professional training in preventing issues like chemical burns, the spread of skin diseases, and permanent hair loss, emphasizing the role of regulation in maintaining public safety (Amato et al., 2022). Further, there is apprehension regarding the potential rise in human and sex trafficking within a deregulated industry. Studies indicate that certain businesses in the beauty sector can become fronts for trafficking, with deregulation potentially exacerbating this problem by offering a high-reward, low-risk opportunity for traffickers, negatively impacting small businesses and the industry's workforce (Nir, 2015; Gould, 2017; Ahearn, 2023).

Additionally, stakeholders recognize that deregulation efforts might culminate in complete deregulation, undermining workplace safety, sanitation, and the value of education in these fields. For business owners in the industry a complete removal of licensing, for example, eliminates proof of a minimum level of demonstrated competence when hiring new employees.

This increases liability exposure for businesses, as it increases the likelihood of both employee mistakes, and outright negligence with no regulations in place to hold practitioners accountable.

Lastly, the economic impact on barber and cosmetology schools in the event of deregulation is a significant concern. Research suggests that deregulation in Texas could lead to the closure of many licensed schools, affecting employment and the viability of these educational institutions (Cellini & Onwukwe, 2022).

CONCLUSION

The ongoing debate over deregulating barbering and cosmetology in Texas requires careful consideration of economic, public health, and safety implications. While reducing barriers to entry may promote economic freedom and opportunity, the potential for unintended consequences must not be overlooked. Studies like those by Thornton & Timmons (2015) and Timmons & Konieczny (2017) have shown how deregulation can impact industry standards, pay scales, and the number of businesses, emphasizing the need for a balanced approach.

Deregulation efforts, as evidenced in legislative actions like HB 2407 and HB 1560, reflect a growing trend towards easing economic burdens. However, they also underscore the importance of maintaining safety and quality standards, as argued by Marcus (2019) and Nunn (2016). These studies highlight the benefits of licensing in providing competitive advantages, better working conditions, and consumer protection. For business owners, staying informed about legislative trends is crucial. Proactive planning can help mitigate the potential adverse effects of deregulation, protecting their businesses and contributing positively to the industry's overall health.

For stakeholders, including practitioners, business owners, and consumers, the implications of deregulation are far-reaching. Concerns about public health and safety, workplace standards, and the economic viability of educational institutions, as discussed by Amato et al. (2022) and Cellini & Onwukwe (2022), must be factored into any regulatory changes. Furthermore, the potential rise in human and sex trafficking in a deregulated industry, as noted by Ahearn (2023), adds another layer of complexity to the debate.

Thus, as legislators continue to grapple with the challenges of occupational licensing deregulation, a multifaceted and cautious approach is required. Policymakers, business owners, and industry participants must engage in an informed dialogue, considering the diverse needs and perspectives of all stakeholders. The decisions made in Texas could serve as a model for other states, setting a precedent in the balance between regulation and economic freedom. The future of occupational licensing in Texas and beyond hinges on finding a sustainable equilibrium that ensures public safety while fostering economic growth.

While this research provides a foundational understanding of the deregulation debates in Texas, it represents only the initial step in a comprehensive academic inquiry into this multifaceted issue. Future research should systematically investigate the longitudinal effects of deregulation on employment patterns, consumer outcomes, and public health measures. Comparative studies across different regulatory frameworks in various states would offer further insights into the efficacy and consequences of such policies. Additionally, an in-depth examination of the adaptive strategies employed by educational institutions in response to these regulatory shifts is warranted. These further investigations are essential for developing a nuanced understanding of the implications of occupational licensing reforms, thereby guiding sound policymaking.



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