



In Minnesota, a hair more freedom at last

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Adam Smith's renowned capitalist manifesto salutes the free market and its metaphorical "invisible hand." But it entertains no illusions about the tendency for real-life hands to grasp every advantage they can.

What's seldom noticed about the dry-eyed assessment of human nature quoted above is that it comes in a passage denouncing not big-business monopolies but a system of lengthy required apprenticeships that in Smith's day blocked entry into many skilled trades, from baking to barbering to blacksmithing and more.

In short, it was an overgrown, anti-competitive, spidery web of occupational licensing Smith was condemning. And it is still with us, like human nature.

Happily, a small victory over contrivance and conspiracy was won in the Minnesota Legislature this year — and efforts to win others were launched. It's a trend worth encouraging.

The Institute for Justice, a national libertarian public-interest law firm, is celebrating final triumph in a 14-year battle to disentangle hair braiders from licensing requirements in Minnesota. When IJ first sued the state Board of Cosmetology in 2005, a hair braider for hire, who cuts no hair and applies no harsh chemicals, needed 1,550 hours of formal training — almost 10 full-time months — before being allowed to work in Minnesota. The state had since reduced the requirement to 30 hours, but even that constituted a barrier for some would-be braiders.

Finally, this year, legislation became law repealing all state licensing regulation of hair braiding.

This is, to be sure, just one breakthrough against a trackless jungle of licensing requirements spreading across America and limiting access to occupations. Today about one American worker in four must seek a government license to earn a living, IJ reports, up from about 1 in 20 in the 1950s.

But the good news is that recognition of the need for licensing liberation is growing and becoming steadily more bipartisan, with not only IJ but the Minneapolis Federal Reserve Bank, the Cato Institute and others impressively documenting the damage overactive licensing does to people trying to get ahead, as well as to the nation.

In 2015, the administration of President Barack Obama issued a illuminating report noting that while some licensing is clearly needed to protect health and safety in highly specialized and inherently hazardous professions, “the current licensing regime in the United States also creates substantial costs Licensing requirements raise the price of goods and services, restrict employment opportunities, and make it more difficult for workers to take their skills across State lines. Too often, policymakers do not carefully weigh these costs and benefits when [deciding] to regulate a profession through licensing.”

“Policymakers,” of course, seldom need a license (neither do newspaper blowhards). The pressure for ever more numerous and elaborate license requirements, for occupations posing few risks to health or safety, has always come from Smith’s “people of the same trade” who already have a position in the marketplace and hope to impede the entry of new competitors. It’s a contrivance that is especially punishing to the disadvantaged who need to work their way up from poverty.

It was always thus: “The patrimony of a poor man,” Smith wrote, “lies in the strength and dexterity of his hands [T]o hinder him from employing this . . . in what manner he thinks proper, without injury to his neighbour, is . . . a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him.”

Almost surprisingly, Minnesota “is one of the better states in the nation for occupational licensing,” according to IJ, which believes less licensing is better licensing. But that may be primarily a measure of how severe the “manifest encroachment” has become across the country.

A number of researchers, including some affiliated with the Minneapolis Fed and the University of Minnesota, have found that the obstacle of confronting different licensing requirements when one moves to a new state reduces the interstate mobility for an ever-growing population of affected Americans, not only stunting opportunities for ever more individuals but perhaps slowing nationwide economic growth.

And for that matter, there’s work yet to be done in Minnesota. Meagan Forbes, local legislative counsel for IJ, reports that several other bills advanced by bipartisan groups of lawmakers this session, but yet to be enacted, would, among other things, free hairstylists, makeup artists and eyelash technicians to ply their trades in eyelash-only shops or remotely at weddings and other special events without securing licensure, as is now required, through hundreds or thousands of hours of mandatory training.

Still another licensing reform bill, also with bipartisan authorship, would allow funeral homes to employ funeral planners who are not themselves fully licensed morticians, as they must be under current law. Such planners would never touch a body, and they would work under a mortician’s supervision.

Conspiracies against the public interest and encroachments on liberty are most hazardous when they are obscure — when individually they affect relatively few people, and those who profit from them have more organized clout than those who are harmed.

An era that claims to be impassioned about increasing equity and opportunity should applaud policymakers’ new interest in combating the contrivances of licensing.