Baltimore: No Harbor For Entrepreneurs

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INTRODUCTION

Baltimore is a city in transition. Many of Baltimore's once mighty industries are gone. The city itself has struggled with unemployment and a declining population. Despite the fact that more than 21 percent of city residents live below the poverty line while 16.4 percent of the population receives some type of public assistance, the City of Baltimore and the State of Maryland continue to create and enforce regulations that stifle would-be entrepreneurs, especially those on the bottom rungs of the economic ladder.

This report addresses the state of entry-level entrepreneurship in the City of Baltimore. Many small enterprises—in such areas as vending, newsstand operation, taxicab service, and garbage collection—face oppressive government regulation or even outright prohibition.

This report calls on the City not to lose sight of industrious, small-scale entrepreneurs struggling to survive in a changing Baltimore.

VENDING

Unlike numerous other municipalities, the City of Baltimore does not place a cap on the number of vending permits it issues. This lack of an artificial, and, in many instances, arbitrary limit on permits should open an avenue of entry into the vending business. But although vendors do not face a numerical limit on entry, they nevertheless face heavy fees and numerous regulations imposed by both the State of Maryland and the City of Baltimore. To demonstrate how these fees can be prohibitive for an industrious but low-income vendor, consider the fact that a pushcart vendor who sells food must pay close to $1,000 in permits and fees to set up. That is above and beyond the cost of their wares. In addition, the City also prohibits vendors from the most potentially lucrative market in downtown—the Inner Harbor area. Baltimore's prohibitory attitude toward vending in tourist areas extends to vending within city parks. These are among the reasons why only about 60 vendors currently operate in downtown Baltimore. This report urges the State to remove itself entirely from the regulation and registration of vendors and allow localities to regulate vending on their streets in reasonable fashion.

In addition to these more modern vendors, Baltimore's horse-pulled fruit- and-vegetable salesmen, known as "arabbers," face an uncertain future. City-imposed regulations demanded by animal rights activists on top of intrusions of modern life threaten to eliminate this entrepreneurial opportunity, which traditionally has been taken up by African-American men. Today, only about 40 arabber licenses are currently issued. Yet these industrious individuals represent a historical link to an era of more sound communities and to a strong entrepreneurial ethic, especially in areas of the city plagued by drugs and urban
decay. Unlike most historic preservation efforts, the arabbers do not rely on government subsidies or regulation to preserve their tradition. Rather, the arabbers only ask that the government limit its role to reasonable regulation of the horses and stables, and allow them to continue in the occupation many of them learned from their fathers or grandfather.

We recommend several reforms to open up opportunities for those who wish to vend. For example, the fees charged for permits, especially food-vending permits, should be substantially reduced. In addition, the City should streamline the regulatory process for Baltimore vendors, making it less burdensome and bureaucratic. Finally, the City should open the city-owned parks and the Inner Harbor area to limited vending.

NEWSSTANDS

It is ironic that Baltimore—whose logo proudly proclaims it to be, “The City That Reads”—prohibits newsstands entirely within its bounds. This ban is both unreasonable and raises serious First Amendment concerns by prohibiting a common means of access to information. Although limiting congestion and potential hazards on city streets are legitimate governmental objectives, the City can further such interests by regulating the size and location of newsstands, rather than prohibiting them outright.

VEHICLES FOR HIRE

The State of Maryland’s Public Service Commission regulates taxicabs and passenger-carrier services in Baltimore. It limits taxis to only 1,151—a number that has remained virtually unchanged for approximately 20 years. In order to obtain a permit, then, a driver must trade for one that has already been issued. As a result, even though the State imposes no fee for a permit from the Commission, obtaining one on the open market costs between $12,000 and $20,000.

Although some cabbies own their own permits, most cannot afford them and must therefore work for a company by paying lease prices as high as $85 a day for the “privilege” of driving for someone else. With gasoline costs averaging $20 to $30 a day, many cabbies must work very long days to turn a profit—sometimes as high as 17-hour shifts, even though the legal limit is 12 hours.

Baltimore’s restrictive system of taxicab regulation has deteriorated working conditions for the drivers and has produced poor results for consumers. In Baltimore’s minority communities, many cite inadequate taxicab service and long waits before a cab will arrive, if it arrives at all.

Among other recommendations, this report calls on the City to open entry into the taxicab market by lifting the taxi cap, thereby providing greater entrepreneurial opportunities for drivers and better service to consumers.
COSMETOLOGY AND HAIRBRAIDING

The practice of African haircare is a growth industry throughout the nation. African hairstyling consists primarily of braiding or “cornrowing” hair. The style differs from traditional cosmetology in that African haircare eschews the use of chemicals, relaxants, and other trappings of traditional cosmetology. To practice the craft of hairbraiding in Maryland, one needed (until recently) a State-issued cosmetology license, which requires 1,500 hours of training in an approved school and an examination that includes demonstrating knowledge of hairstyles never used in African haircare.

Last year, the State Cosmetology Board unofficially exempted hairbraiding entirely from any type of cosmetology regulation. The Board should be commended for this position, but it should make this view official and explicit. Hairbraiding and hairbraiding salons could be inspected to ensure health and safety, but other irrelevant cosmetology regulations should be eliminated because they serve no legitimate governmental objectives and only stifle competition. Moreover, the Board should apply its insights on the deregulation of hairbraiding to the entire cosmetology profession.

TRASH REMOVAL

In contrast to Baltimore County, trash collection in the City of Baltimore is a public monopoly: Private companies are forbidden to provide trash removal services within the City limits. Perhaps that is why the City requires 508 employees paid by the taxpayers to remove garbage while the county requires only five public employees with 49 private companies doing the heavy lifting.

CHILD CARE

Given Baltimore’s alarmingly high rate of nearly 50 percent of households headed by single parents, it is essential to maintain low-cost and easily available child-care services. Maryland seems to have adopted a fairly reasonable regulatory regime for child care, with some exceptions. Child-care centers in Maryland must be licensed, while family child-care centers operated out of the home need only be “registered” with the State. Baltimore allows a home to care for up to eight children (the maximum permitted by the State) without obtaining a variance from Baltimore’s Zoning Board of Appeals. A use permit required by the Zoning Board to operate a family child-care center costs $14, a reasonable fee. The State charges no fee for the license application, the licenses or registrations, or the orientation classes it requires for those who wish to provide child care. In contrast to such states as New York, Maryland also has rather reasonable educational requirements for child-care providers.

However, state requirements such as submitting a statement of the outdoor areas, playgrounds, parks, and pools near the home, seem directed not at protecting health and safety, but at guaranteeing a certain level of recreational opportunities outside the home. Moreover, Maryland’s seemingly inflexible requirements for maintaining child-care centers, complete with mathematical equations on “useable floor space,” may well serve as a barrier to the establishment of child-care centers.
Introduction

Baltimore is a city—to use a popular catch phrase of urban planners—"in transition." Many of Baltimore's once mighty industries are gone. The city itself has struggled with unemployment and a declining population. More than 21 percent of city residents live below the poverty line, while 16.4 percent of the population receives some type of public assistance. An astounding 46.1 percent of Baltimore households are headed by one parent, the fifth highest ranking among American cities.¹

Despite these depressing statistics, Baltimore during the early 1980s witnessed somewhat of a renaissance, spurred by the development of the Inner Harbor area into a major tourist attraction with shopping and a world-class aquarium. Furthermore, in 1992, the City opened the much-praised, "old-style" Camden Yards baseball park, home of the Baltimore Orioles.

In the City's and State's zeal to promote tourism, attract sports franchises, and revitalize business through public/private partnerships, Baltimore's proud history of local entrepreneurship and small enterprise has, for the most part, been overlooked. This report addresses the state of entry-level entrepreneurship in the City of Baltimore. The report focuses primarily on the following entry-level areas: vending (including Baltimore's threatened tradition of "arabbing"); newsstand operation; hairbraiding and cosmetology; vehicle-for-hire services (taxis, limousines and vans); child-care centers; trash-removal services; and home-based businesses. Many small enterprises—in such areas as vending, newsstand operation, taxicab service, and garbage collection—face oppressive government regulation or even outright prohibition. This report calls on the City not to lose sight of these industrious, small-scale entrepreneurs struggling to survive in a changing Baltimore.

Vending

Entrepreneurs who wish to sell food, T-shirts and other goods face an array of regulations, fees and, in certain instances, outright prohibitions.

The good news for Baltimore vendors is that the City, unlike numerous other metropolitan areas, does not place a cap on the number of vending permits. This lack of an artificial, and, in many instances, arbitrary limit on permits should open an avenue of entry into the vending business.

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Although vendors do not face a numerical restriction on entry, they nevertheless face heavy fees and numerous regulations. All vendors face at least two levels of fees and regulations: those imposed by the State of Maryland and those imposed by the City of Baltimore.

Any person wishing to sell non-edible goods such as T-shirts or incense from a stationary stand must obtain a trader’s permit from the State. The fee is reasonable—$20. If the stand is mobile, however, the vendor must receive a foot peddler’s permit, which costs $202 per year. The great disparity between these permits is unjustified and represents a bias against traditional mobile vendors. The State should equalize the fees for peddlers and traders by reducing the peddler’s fee. Even better, the State should remove itself entirely from the regulation and registration of vendors and allow localities to regulate vending on their streets in reasonable fashion.

In addition to the categories of vending established by the State, the City classifies vendors into three geographic categories: non-downtown areas, downtown, and city parks.

The City requires vendors to acquire one of two tags to affix to the cart: a pushcart permit, which costs $14 per year, or a wagon/huckster permit (for wagons, vans, etc.), which costs $20 per year. While these fees seem reasonable, the City does not stop at licensing just the carts used by vendors. To vend in non-downtown areas, a vendor must receive a “minor privilege” permit from the Department of Housing. These permits are issued only to vendors selling food. The Department gives minor privilege permits to “primary users” (store owners who wish to extend their property rights on the sidewalk) and “second porters” (pushcart vendors). A minor privilege permit for pushcarts is currently $324.

In downtown areas, pushcart vendors, in addition to getting the pushcart permit, also must obtain a special permit from Baltimore’s Board of Licensing for Hucksters, Hawkers, and Peddlers. The application fee is $25, and the permit costs $75 for vendors selling merchandise and $375 for food vendors. Food vendors are hit with additional fees from the City. On top of the special permits for downtown areas and minor privilege permits in non-downtown areas, food vendors also must obtain a retail food permit from the City’s Bureau of Food Control. A permit for potentially “hazardous” food (such as hot dogs) is $250 per year; a permit for prepackaged or non-hazardous food is $160 per year. Tom Dambrosky of the Department of Building and Construction estimates that a pushcart vendor who sells food pays close to $1,000 in permits and fees just to set up.

Even if a vendor can afford the rather exorbitant fees charged by the City, he or she also faces a number of regulatory hurdles. To receive a permit to sell downtown, a vendor must submit an application to the Board of Licensing for Hucksters, Hawkers and Peddlers. The application must include a photograph of the location at which the vendor plans to do business and a photograph of the
pushcart the vendor plans to use. From there, the application must be reviewed by three City agencies (Traffic, Police, and Community Development). Review by each of these agencies (any of which can recommend that the permit be denied) culminates in a hearing, at which time a decision is made on the application. The hearing board meets only once every other month and requires applicants to submit their materials at least two weeks before board meeting dates.

If a property owner objects to a vending station in a particular downtown location, he or she can request a hearing before the Board of Licensing. In non-downtown areas, a competing property owner has a much more powerful weapon against vendors. To obtain a minor privilege permit in non-downtown areas, a vendor must obtain the permission of the property owner on whose sidewalk they plan to operate. This requirement gives effective veto power to store owners, thus insulating them from vendor competition and essentially transferring regulatory power over public property to private entities.

The licensing fees coupled with the regulatory process impose significant burdens on vendors throughout the Baltimore area, and limit the ability of would-be vendors to enter the market. For instance, although there is no cap on the number of vending permits, only about 60 vendors currently operate in downtown Baltimore.

In addition to imposing stiff licensing fees and a burdensome regulatory process on would-be vendors, the City also prohibits vendors from operating in the most potentially lucrative market in downtown Baltimore—the Inner Harbor area. As mentioned in the introduction to this report, the Inner Harbor is the revitalized center of the city, and has become a nationally renowned tourist attraction. The City, however, prohibits all vending south of Lombard Street, the street two blocks north of the Inner Harbor. Apparently, the City buckled under to pressure from the Rouse Company (the developer and owner of most Inner Harbor shops) to prohibit vending in the area, undoubtedly to limit competition with their tenants. Admittedly, if vendors could operate in the Inner Harbor area, they would have to be tightly controlled due to the heavy pedestrian traffic. However, the City should not block out a whole area from those who wish to vend.

Baltimore's prohibitory attitude toward vending in tourist areas extends to vending within city parks. Prior to 1994, the City issued bids for the opportunity to vend in the parks. One company, Baltimore Sports and Recreation, dominated the bidding process and focused primarily on the adult softball leagues that frequented city parks during the summer. In 1994, the City abolished the bidding process that led to domination by one company and began issuing permits to vendors to operate in the city's larger parks. The permits cost $250.

According to Geri Donnerman of the City's Department of Parks and Recreation, the process and the vending itself became disorganized and the City found itself unable to control unauthorized vending. Donnerman cites examples of unlicensed vendors pulling up onto the grass and selling rugs from the backs of
their cars. Because of these and similar problems, in 1995 the City abolished all vending in city parks. The only exception to this prohibition is in Druid Hill Park. In that park, the City runs two concession stands.

The City’s attempt to deal with vending problems in city parks was both unnecessary and extreme. Rather than prohibiting vending outright, it could have relied on more stringent enforcement of vending rules and regulations to prohibit unauthorized or chaotic vending. While the City certainly has an interest in maintaining order and preserving the aesthetic qualities of its parks, it should reconsider its ban and allow vendors once again to sell snacks, beverages, and other items in a safe, orderly, and aesthetically pleasing manner throughout Baltimore parks.

Baltimore’s Grand Tradition of Arabbing

In addition to these more modern vendors, a slice of history exists amid the narrow streets of West Baltimore. Although practically everyone is familiar with the sights and sounds of modern city life—horns, loud music, chatter, truck engines—a trip to this side of town on a summer day reveals a tradition not familiar to most city explorers: the clippity-clop of horses pulling wagons filled with fruits and vegetables and the unmistakable bellow of the “arabbers” (pronounced “AY-rabbers”) hawking their wares. These few surviving arabbers—the name supposedly derives from a nineteenth century London slang term for homeless urchins and street peddlers—are the “only working reminders of a vanished era of horse-and-wagon commerce dating back more than 200 years. They recall a time when deliveries of wood, coal, ice, milk, food and almost everything else were made by horsecart.”

The arabbing tradition is under attack not only from the encroachment of modern life, such as supermarkets and pickup trucks, but also from the stifling effects of government regulation. The decline of arabbing began in 1966 when the City made it virtually impossible to construct any new stables within its limits. Around the same time, government urban renewal projects closed some of the remaining stables as well as the City’s wholesale produce market in the Inner Harbor, which made it much more difficult for arabbers to conveniently obtain their stock.

The arabbing tradition struggled along, however, until the arabbers faced a larger and far more politically powerful adversary: animal-rights activists from the suburbs who are philosophically opposed to the use of horses for trade, especially in a city environment.

To fight efforts that would heavily regulate and eventually prohibit arabbing, the Arabber Preservation Society (APS) was formed in January 1994. The Society—which had restored some older stables and raised funds to preserve arabbing—swung into action against Bill 753, which, among other things, would have sharply
limited the number of arabber licenses issued each year. Most members of the community, while acknowledging problems with how the animals were cared for in some of the stables, recognized that arabbing is a vital entrepreneurial tradition worthy of preservation. As Richard Kurin, director of the Smithsonian Institution’s folk-life program has recognized: “In the end, when we lose the arabbers...I think a bit of the city’s soul is lost.” Because of the efforts of APS and others, Bill 753 eventually went down in defeat.

The regulations and harassment of the arabbers have taken their toll. Only about 40 arabber licenses are currently issued. Meanwhile, pressure from the animal-rights activists continues. According to Steven Blake, a carpenter by trade and president of APS, new regulations have been pending for more than a year. The regulations, pushed by the animal-rights activists, would not need City Council approval and instead could be implemented by the City’s Health Commissioner. Among other things, the regulations would establish a detailed and stringent temperature/humidity index that would curtail the ability of arabbers to work. For instance, according to Blake, the temperature could be 75 degrees with light rain (but high humidity) and the horses could not be taken out.

The racial dimensions to this struggle have not been lost on the community—especially the arabbers. While almost all of the arabbers are older, African-American men from the inner-city trying to eke out a living, the animal-rights activists are uniformly well-educated, white suburbanites on an ideological crusade. Moreover, what the activists ignore is that the arabbers themselves are “horse-crazy” and often choose arabbing as an occupation or do it in their spare time so that they can be around horses.

For the grand tradition of arabbing to be preserved, regulations that go beyond reasonably protecting the safety of the horses must be defeated. Indeed, the City should encourage the expansion of this dynamic remnant of Baltimore’s splendid history of neighborhood enterprise. Unlike most historic preservation efforts, the arabbers do not rely on government subsidies or regulation to preserve their tradition. Rather, the arabbers only ask that the government limit its role to reasonable regulation of the horses and stables and allow them to continue in the occupation many of them learned from their fathers or grandfathers.

The arabbing tradition also is important as a rich African-American cultural tradition. In areas of the city plagued by drugs and urban decay, arabbing represents a historical link to an era of more sound communities and to a strong entrepreneurial ethic. Reflecting on the diminished opportunities for arabbing, Dante, the son of arabber John Gladney said: “This is a simple lifestyle. My generation was misguided on how to survive. It was all big-screen TVs and gang [fights]. We lost reality within ourselves. But with arabbing, you can be your own boss, work your pace.”
As controversy continues to swirl, older arabbers like Pistol, Man-Boy, and Nubby (arabbers rarely go by their given names) will watch over the stable near Hollins Market and swap stories as the few remaining arabbers load up their wagons and hit the streets. Despite the challenges faced by arabbers, these resolute entrepreneurs will doubtlessly keep going unless extinguished by overzealous government regulation. As arabber Keith Brooks explained to the *Philadelphia Inquirer*:

'They try to push the arabber out of business. But I love this job. Been doing it 28 years. Sometimes I get in fights with my girlfriend over it. She said I care more about my horse. And I said, 'Girl, don't talk about my horse.' By early evening, Brooks and Roy were clopping through the honey-combed streets near Camden Yards, the arabbers voice still strong: 'Fruit man. Strawberrrrrries. . . .'"6

We recommend several reforms to open up opportunities for those who wish to vend. First, the fees charged for permits, especially food-vending permits, should be substantially reduced. Second, the regulatory process for Baltimore vendors should be streamlined to make it less burdensome and bureaucratic for would-be vendors to obtain licenses. Third, the abutting property owner’s veto should be eliminated in non-downtown areas. If an adjoining property owner has a problem with a vendor, then he or she can present those problems to the board, but the property owner should not be granted an automatic-veto right. Fourth, the City should open up the area south of Lombard Street and allow limited vending in the Inner Harbor area. Fifth, the City should open the city-owned parks once again to limited vending. Finally, the City should allow arabbers to continue in this venerable tradition by limiting its role to reasonable regulation of the horses and stables.

**NEWSSTANDS**

How ironic that Baltimore—the home of one of America’s most famous newspapermen, H.L. Mencken, and whose City logo proudly proclaims it to be, “The City That Reads”—prohibits newsstands entirely within its bounds. Although one can buy newspapers from boxes (which, incidentally, are tightly regulated), newsstands are simply forbidden. This ban is unreasonable and may even raise First Amendment concerns, as it prohibits a common means of access to information.7

Newsstands are a common feature of life in most American cities, a place where pedestrians can browse through magazines or quickly buy a paper. Newsstands come in various shapes and sizes depending on the foot traffic and potential congestion in a particular area. Although limiting congestion and potential hazards on city streets are legitimate governmental objectives, such interests can be
furthered through regulation of the size and location of newsstands, rather than prohibiting them outright. It would be a boon to entrepreneurship and a fitting tribute to Mencken’s legacy for Baltimore to lift its prohibition on newsstands.

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**Vehicles for Hire**

The State of Maryland’s Public Service Commission regulates taxicabs and passenger-carrier services in Baltimore. Indeed, the City really has no say in the “vehicle-for-hire” industry, and the Baltimore City Code contains only two sections relating to taxicabs.\(^8\) In contrast, the State’s Public Service Commission has extensive regulations governing vehicle-for-hire service in each county and city in the state.

Maryland classifies “vehicle-for-hire” services in two categories: taxicabs and passenger carriers (charters, limousines, coaches, shuttles, etc.). The State issues permits for operating both a taxicab and a passenger-carrier service. Although the commission issues permits to either individuals or corporations that wish to operate taxis, permits for passenger carriers are issued only to companies. The bright side for individuals or companies who wish to start these services is that the State does not charge for the permits and there are no mandatory courses for those who wish to go into the business.

The sharpest contrast between passenger-carrier services and taxicabs in Baltimore is that while no cap exists on the number of permits issued for passenger carriers, the number of taxi permits is strictly limited. Only 1,151 taxi permits have been issued for Baltimore, and that number has not changed for approximately 20 years. Because the City has reached its limit and the Commission will not issue more permits, permit owners must trade among themselves. As a result, even though the City imposes no fee for a permit from the Commission, obtaining a permit through trade costs between $12,000 and $20,000.

Given the cap on taxi permits within Baltimore, it is not surprising that there are only eight “approved associations” or companies operating within the city. While some cabbies own their own permits, most cannot afford the permits and must therefore work for a company. Some cab drivers choose to work for companies even if they own a permit because of high insurance rates and the ability to take advantage of dispatch service. However, it costs drivers (or “independent contractors”) approximately $80 to $85 per day to rent from the company (or, in the words of the taxicab industry, to become “members” of a particular cab association). With gasoline costs averaging $20 to $30 a day, many cabbies must work very long days to turn a profit—sometimes as high as 17-hour shifts, even though the legal limit is 12 hours.

In addition to the insurance costs and dispatch services, many drivers cite
another less savory reason to work for a company despite holding a permit—the favoritism shown by many downtown businesses and the City government toward large companies, especially Yellow Cab. Cabbies complain that downtown hotels will only allow certain cab companies to pick up at their location. This practice even extends to city-owned facilities such as the convention center, where police officers and City employees have been known to hassle non-Yellow cabs waiting for fares. Baltimore’s restrictive system of taxicab regulation has deteriorated working conditions for the drivers and has produced poor results for consumers. A recent article in the Baltimore Sun concerning Royal Cab Company’s purchase of permits from other companies concluded that the “deal doesn’t mean pedestrians will suddenly be awash in cabs, the scarce number of which tend to orbit around local hotels.” Moreover, leaders in the minority communities of Baltimore underscore the Sun’s report. Many cite inadequate taxicab service to the city’s poorer areas and long waits before a cab will arrive for a pick-up, if the cab arrives at all. Another result of the cap on permits is the rise of gypsy cabs or “hackers,” illegal, unlicensed cabs that try to fill in the gaps in service. Not surprisingly, hackers cause much consternation among licensed cabbies trying to make it on their own or with a cab company.

The State of Maryland should open entry into Baltimore’s taxicab market by lifting the cap on the number of taxis permitted on the streets, providing greater entrepreneurial opportunities for drivers and better service for consumers. Anyone with a safe driving record, a safe vehicle, and the proper insurance should be allowed to enter the taxicab market. In advocating opening the taxi industry in her city in 1994, Cincinnati Mayor Roxanne Qualls described a situation quite similar to Baltimore’s, and eloquently stated the case for reform. By capping the number of permits, the State:

interjects its judgment in determining need rather than allowing the marketplace to do so. . . . One of the major problems within the industry has been the hoarding of licenses by companies and individuals. An increase in demand has created a black market on cab licenses so that a commodity that can be purchased from the city for $161 is sold on the street for $3,000 or more [up to $20,000 in Baltimore]. City policy should not facilitate the creation of black markets.

The second problem with the city’s current policy as it relates to taxicabs is that cab companies that control the limited supply of licenses turn around and lease those for a profit. Drivers pay as much as $100 to $200 per week [usually at least three times that in Baltimore] for the privilege of using a city-issued cab license. City policies should not create a system where individuals or companies are making a profit by leasing city property.
In addition to adopting the reforms referenced previously, Baltimore officials should also refrain from favoritism toward any cab company, thereby placing all cabbies, whether independent or company-employed, on equal footing.

**Cosmetology and Hairbraiding**

The practice of African haircare has been a growth industry throughout the nation. African hairstyling consists primarily of braiding or “cornrowing” hair. The practice differs from traditional cosmetology in that African or natural haircare eschews the use of chemicals, relaxants, and other trappings of traditional cosmetology.

Despite the significant differences between African hairstyling and traditional cosmetology, many state boards of cosmetology seek to impose the entire regulatory apparatus on those who wish to practice hairbraiding and cornrowing, often with destructive consequences for entrepreneurship. Until recently, hairbraiders in the State of Maryland faced a similar situation. (Regulation of cosmetology in Maryland occurs at the state level by the State Board of Cosmetologists, a division of Maryland’s Department of Labor, Licensing and Regulation).

Consider the case of Bikane Diop, an immigrant from Senegal. Noting the growing popularity of braiding and the lack of an established braiding shop in the Baltimore area, Diop in 1994 opened the African Braiding House on Charles Street on the north end of Baltimore. He applied for and received a business owner’s license from the City, hired several skilled braiders, trained others, and began what in only a year’s time turned into a successful small business.

In August 1995, inspectors from the State Board of Cosmetology visited Diop’s shop and discovered that Diop and his braiders did not have cosmetology licenses. He was told that he and the braiders must obtain cosmetology licenses for the braiders to continue and for the shop to remain open. If he did not abide by the cosmetology law, he would face fines and even jail time. A cosmetology license in the State of Maryland requires 1,500 hours of training in an approved school. The examination for a cosmetology license includes demonstrating knowledge of pincurls, fingerwaves, and other hairstyles that have not been popular for close to half a century and are never used in hairbraiding.

Diop and several other braiders from other parts of Maryland were summoned before the State’s Cosmetology Board. At the hearing, Diop met Taalib-Din Uqda, a national advocate for the reform of cosmetology laws and a
champion of the rights of hairbraiders. Both Uqdah and Diop spoke at the
hearing of the inapplicability of traditional cosmetology laws to the art of African
hairbraiding. They urged the Board to either explicitly exempt hairbraiding from
the cosmetology laws, or, at a minimum, to create limited licensure for
hairbraiding.

Although the Board initially seemed reluctant to accept any changes in the
law, the hairbraiders were informed after the hearing that the board supported
the concept of a “new limited practice license for hairbraiding.” Uqdah,
working with sympathetic legislators in the Maryland General Assembly, drafted
legislation for limited licensure for hairbraiders. The legislation was introduced
and a hearing was conducted on February 29, 1996.

Testifying before the Senate Committee on Economic and Environmental
Affairs was Harry Loleas, Deputy Commissioner for the Maryland Department
of Occupational and Professional Licensing, the umbrella agency of which the
cosmetology board is a part. To the surprise of virtually everyone, the
Department took a position different from the initial position of the
cosmetology board: it now favors exempting hairbraiding entirely from any
type of cosmetology regulation. Loleas' testimony before the committee, which
reveals a keen understanding of the problems faced by hairbraiders, merits
quotation:

[T]he current cosmetology law does in fact cause a significant
problem to hairbraiders. They are in fact either illegal or forced to
take a cosmetology curriculum that does not reflect their true
curriculum and the knowledge they need to practice their
profession. But our reaction in how to deal with this has evolved
over the last few months or so. Our initial reaction to this was in
fact to look at the idea of having a limited license for hairbraiders;
but as the department has considered this more fully, we have come
to the conclusion that...the definition of cosmetology be changed to
deregulate; to take out of any regulatory mode, hairbraiding. That
the issues of health and safety and other issues which normally
drive regulation are not there in a significant extent for this
profession to require the intervention of government. . . .

We commend the department's change of heart. Hairbraiding and
hairbraiding salons could still be inspected to ensure that health and safety
concerns are addressed, but the irrelevant cosmetology regulations need not
be applied to this craft to satisfy legitimate governmental objectives.

Although the department's 180-degree turn diminished the need for
separate licensure, the Department should still make official its determination
that hairbraiding is exempt from cosmetology regulation through the issuance
of an opinion letter or a formal rulemaking procedure. Contrary to the Loleas' testomony, the statutory definition of cosmetology need not be changed to
exempt hairbraiding, since the practice of braiding and cornrowing is not explicitly included in the current definition of cosmetology under Maryland law. Again, the Department should, at the very least, issue some type of official opinion letter or rule to make its position absolutely clear, so that other braiders will not be subject to harassment or threats simply for practicing their craft.

Moreover, the Department should apply its insights on hairbraiding to the entire cosmetology profession. The Department should re-examine the extensive and antiquated training it requires for cosmetology licensing. It should question whether the 1,500-hour requirement really protects public health and safety or if it rather serves as an anti-competitive impediment to entry into the cosmetology profession.

Trash Removal

Trash collection in the City of Baltimore is a public monopoly. The 508 employees of the Collections Division of the City's Solid Waste Department do all of the trash pickup within city limits. The monopoly extends to both residential and commercial trash removal and to the collection of recyclables. Moreover, it is illegal to "scavenge" (pick up recycled materials that are left for City collection). The fine is $500. In addition to collecting trash, some of the City's collection employees are actually "beautification police." That is, supervisors from the Collections division patrol city streets looking for unkempt lawns that may violate the City Code, regardless of whether a complaint has been made.

As a result of this monopoly, private businesses are excluded from the marketplace. The Superintendent of Collections for the City of Baltimore, while admitting that privatization has been discussed in the past, defends the monopoly primarily on the grounds that the City performs non-recyclable collections twice a week, while most private companies only pick up once a week.

Contrast the City of Baltimore's trash removal system to the one in Baltimore County. The county has almost entirely privatized its collections system. It employs 49 collection companies to pick up the trash of its more than 320,000 residents. Each company has a specific area in which to perform trash collection. If for some reason a hauler cannot pick up, the county makes sure that the trash is removed. Accordingly, it keeps a limited number of county employees on hand. Compared with the more than 500 employees of Baltimore, the county collection department has five employees.

According to Bill Horn, Superintendent of Baltimore County Department of Collections, the collectors make their rounds once a week, with alternating pickups for bottles and paper. Apartment complexes receive service twice a week, because,
according to Horn, they do not yet have proper recycling programs in place. Horn said the county’s collection system provides efficient, cost effective service to its customers, and he has never received complaints that the trash is not picked up more frequently than once a week. When asked why places like Baltimore City have collections two times a week without any corresponding benefit to the public, Horn responded: “People do not like to change.”

In comparing Baltimore County’s system of trash collection to the City’s public monopoly, it seems hard to justify keeping competitors out of the marketplace on the grounds that the public monopoly provides pickup twice a week—as opposed to once a week—even when there does not seem to be any corresponding benefit to the public. Moreover, the county’s privatized system creates a public benefit: business opportunities for 49 companies and their employees to enter the market. In fact, Bill Horn of the county’s collection department believes that one of the reasons for the success of the county’s system is that the contractors are either locally owned or the employees live in the communities in which they work.

Although initial capital costs can be quite significant for entrepreneurs, Baltimore County’s system allows smaller companies into the marketplace and provides entrepreneurial opportunities for dozens of companies and their employees. The City eviscerates these opportunities through maintenance of its monopoly. The City should reconsider its monopoly on trash collection and follow the lead of Baltimore County in opening up its trash collection service to private companies.

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**Child Care**

In Baltimore, child care is divided into two categories: care provided by licensed child-care centers and family child care provided in the home. The regulation of both types of child care comes from the State of Maryland, not City of Baltimore officials.

Given Baltimore’s alarmingly high rate of nearly 50 percent of households headed by a single parent, it is essential to maintain low-cost and easily available child-care services. Thankfully, Maryland seems to have adopted a fairly reasonable regulatory regime for child care, with some exceptions. Child-care centers in Maryland must be licensed, while family child-care centers need only be “registered” with the State. Baltimore allows a home to care for up to eight children (the maximum permitted by the State) without obtaining a variance from Baltimore’s Zoning Board of Appeals. A use permit required by the Zoning Board to operate a family child-care center is $14.
One of the most admirable aspects of Maryland’s system is that the State charges no fee for the license application, the licenses or registrations, or the orientation classes it requires for those who wish to provide child care. This eliminates at least one potential hurdle for those who wish to enter this burgeoning field.

**FAMILY CHILD CARE**

In regard to family child care, the application for registration is rather extensive, but most of the requirements focus on ensuring the health and safety of the children (such as emergency escape plans for the home, notarized permission forms to examine records of child abuse, etc.). However, some of the requirements, such as submitting a statement of the outdoor areas, playgrounds, parks, and pools near the home, seem directed not at protecting health and safety, but at guaranteeing a certain level of recreational opportunities outside the home. Such factors should not be a basis for denying registration to a family child-care center that may be fully capable of providing care and enjoyment to children within the home or backyard without resort to outside activities.

Another troublesome regulation of family child-care providers is the built-in bias against issuing any waivers or variances to the regulations. The regulations provide that the State may not waive a particular regulation or grant a variance unless a child-care provider “presents clear and compelling evidence that a regulation is met by an alternative which complies with the intent of the regulation. . . .” Although it is certainly important to not vest too much discretion in State officials to waive important health and safety requirements, the State should take a more flexible approach to individuals who wish to provide safe, low-cost care to satisfy ever-expanding child-care needs. The presumption against waivers and the inflexibility of the regulations make it difficult to grant entirely reasonable waivers to those who safely provide child care, but who may not be able to meet every minute facet of the regulations.

In contrast to such jurisdictions as New York, Maryland has rather reasonable educational requirements for directors and employees of child-care centers and for those who wish to run family child-care centers out of their homes. To establish a family child-care center, one must attend a three-hour orientation class. The classes are offered twice a month in each of the state’s regions, usually in local libraries. The family providers must be at least 18 years old. They are not required to have a college degree or any advanced training in child care. The family provider need only complete six hours of health-related classes and three hours of approved training on child development or child-care business classes. For a provider’s registration to be renewed (registrations must be renewed every two years), the provider must complete six hours of approved training on child health issues and six additional hours on business-related issues.
CHILD-CARE CENTERS

As mentioned previously, child-care centers outside the home must be licensed by the State. To be licensed, centers must meet detailed regulations governing everything from food storage to the disposal of refuse. Many of the regulations are aimed at protecting children’s health and safety. However, some of the regulations are so detailed and onerous that they may serve as a barrier to the establishment of a child-care center.

For instance, the State sets forth in extensive detail, complete with mathematical equations, the space requirements for child-care centers, supposedly to ensure a specific amount of “useable floor space.” One must wonder, however, whether such complexity actually serves the needs of children or whether a more flexible standard could be developed that would allow adequate space for children to learn and play without seemingly arbitrary requirements.

All directors of a licensed child-care center for preschool children must be at least 21 years old and have a high school diploma or its equivalent. In contrast to New York’s requirement that child-care center directors receive a master’s degree or be enrolled in a master’s program, Maryland requires that all directors have completed at least six college semester hours or 90 hours of approved training in addition to one year of experience in child care. Perhaps in an effort to lift the credentialing requirements for smaller child-care providers, Maryland has a tiered approach for credentialing directors of small, medium, and large child-care centers. For instance, a director of a large institution (more than 40 children) must have attained at least an associate’s degree in early childhood development and have two years of experience in child care. In contrast, directors of small centers (fewer than 20 children) need only have one year of work experience under supervision or two years of experience caring for preschoolers as a registered family child-care provider. A director of any center caring for infants needs an additional 45 hours of training in infant care.

Maryland’s effort to loosen credentialing requirements for smaller centers is commendable. The approach creates a fairly reasonable regulatory environment.

Home-based Businesses

As throughout the country, home-based businesses are growing rapidly in Baltimore. Unfortunately, zoning regulations that govern businesses operating in the home have not kept up with this important sector of the economy. According to Don Grauel, who handles legislative matters for the Maryland Home-Based Business Association, zoning regulations in Baltimore and many other cities are outdated and create a climate of fear and uncertainty for those starting a business in the home. For instance, many
zoning ordinances prohibit business equipment in the home. When these ordinances were drafted, they were obviously aimed at banning industrial-like equipment, such as a printing press, from a residential setting. However, given the breadth of the ordinances, they conceivably could be applied to such innocuous modern business equipment as fax machines and computers.

Grauel claims that while the City of Baltimore and Baltimore County have not aggressively enforced their outmoded zoning ordinances, the laws nevertheless make those who wish to start home-based businesses reluctant to contact any government official with questions or concerns, for fear of running afoul of the law. Of course, this atmosphere hinders the growth of home-based businesses and gives an air of illegitimacy to a vital and growing part of the economy.

Last year the Home-based Business Association pushed House Bill 158 in the Maryland Legislature, a bill that would have standardized local ordinances throughout the state to make them conducive to operating businesses in the home. Concerns about the displacement of local authority and control led to the bill’s defeat. The Association has now turned its efforts to reform of local laws. Grough points to Montgomery and Prince George’s counties as examples of zoning laws in Maryland conducive to starting up and maintaining a home-based business. Baltimore should likewise revamp its zoning ordinance and lift the veil of uncertainty and fear surrounding businesses in the home.

**Conclusion**

In its transformation to a tourism center, Baltimore must not forsake its robust tradition of entrepreneurship. Too many entry-level opportunities in Baltimore—whether in vending, newsstand operation, taxicab-driving, or trash removal—have been shut down by a combination of state and local regulations. Although sports teams and tourism certainly bring jobs and dollars into the downtown area, Baltimore’s small shops and entry-level entrepreneurs are also a vital, year-round source of employment and opportunity for those struggling to gain a foothold on the economic ladder. Removal of the barriers and regulation documented in this study will go a long way toward making Baltimore once again a center of commercial activity—whether the enterprise be large or small.
Endnotes


2 Mary Pemberton, “If The Arbabers Go, A Bit of the City’s Romance Will be Lost, Too,” Capper’s, June 6, 1995.


4 Mary Pemberton, “If The Arbabers Go, A Bit of the City’s Romance Will be Lost, Too,” Capper’s, June 6, 1995.


6 Id.


8 Balt. City Code, Art. 19, §§187, 187A (criminalizing refusal to pay fare and making it illegal for cabs outside of the City to pick up passengers within City limits).

9 Alec Matthew Klein, “Royal Cab Buys Two County Taxi Services,” The Baltimore Sun, June 3, 1996.


11 Letter of Kathleen A. Harryman, Administrator, State Board of Cosmetologists to Taalib-Din Uqda, November 22, 1995.

12 If the family child-care center has more than eight children, it must be licensed as a child-care center. If such a facility was operated out of the home, a provider needs a variance from the City’s Zoning Board. The variance requires a hearing before the Board and the application is $175. However, the City’s Building and Construction Department reviews plans without charge to determine whether a center needs a variance or not.

13 See Md. Reg. 07.04.01.04.

14 See Md. Reg. 07.04.01.12.

15 See Md. Reg. 07.04.02.35 et seq.
HOME-BASED BUSINESSES

Clearly, Baltimore’s zoning regulations that govern businesses operating in the home have not kept up with this important sector of the economy. As a result, the City has created a climate of uncertainty for those starting a business in the home. Although not aggressively enforced, these outmoded laws nevertheless make those who wish to start home-based businesses reluctant to contact any government official with questions or concerns, for fear of running afoul of the law. This atmosphere hinders the growth of home-based businesses and gives an air of illegitimacy to a vital, growing part of the economy.

CONCLUSION

A combination of state and local regulations has eliminated too many entry-level opportunities in Baltimore—whether in vending, newsstand operation, taxicab driving or trash removal. Although sports teams and tourism certainly bring jobs and dollars into the downtown area, Baltimore’s small shops and entry-level entrepreneurs are also a vital, year-round source of employment and opportunity for those struggling to gain a foothold on the economic ladder. Removal of the barriers and regulations documented in this study will go a long way toward making Baltimore once again a center of commercial activity—whether the enterprises be large or small.
Biography

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Scott G. Bullock serves as staff attorney at the Institute for Justice. He litigates civil rights, property rights, and other constitutional cases in both federal and state courts. Some of his current cases include constitutional challenges to inspection laws on behalf of tenants in rental housing and to mandatory community service for public high school students.

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