

My name is Jerry Shinnars, Administrator of New England Trail Rider (NETRA), 900 of which are from Connecticut and the rest of the 2100 are from the other New England States and New York. We are a motorcycle association and I live in Connecticut.

The State of Connecticut wants ATV registration. An ATV is defined by either having 2 or 4 wheels. There is up to 60,000 of them in the state. Nobody knows for sure. There is no place in the State to ride them. The first problem is why anybody would register their ATV if there is no place to ride?

ATV registration is punitive without a place to ride. It is putting the cart before the horse. Of course the State thinks once there is ATV registration in the State there will be some control but there will be no trails unless the DEEP changes the ATV policy and is more flexible. The DEEP has stonewalled us (users) since 1986 when a law was past that "the State shall provide trails". However, no trails have been provided.

Does anyone think trails will magically appear? The DEEP are not changing their ATV policy for creating trails. Check out the DEEP ATV policy. Go to Google and put in CT DEEP ATV policy. It's almost impossible to follow for anyone. DEEP sees it as a concession- somebody else runs it.

Someone would have to apply for an area. There is no money to pay for it and no help from the State at all. That person or persons are totally on their own. They would have to get permission from all areas of DEEP- forestry, fisheries, water, endangered species, soil and animal habitat like deer or turkeys and pay for the research which could be as much as hundreds of thousands of dollars. Then, if passed, they have to hire someone to run it and oversee it. The chance of getting this done is like winning the lotto.

How do I know this? I tried 3 times in the over 30 years I have been attempting to create trails for ATV's. Only one of the proposals was even looked at. This is the entire attempts to create trails. The one proposal they even looked at they shot down. Why? I thought it was perfect. It was out of the way, with a parking area. It was a flood control dam protecting Stafford. No animal worries or endangered species. They shot it down because it could be wetlands. Of course it could be but it had never flooded.

As far as I have seen the State has not given one inch in trying to create trails. Even if the DEEP gets some money from part of the registration will it be enough? Can they just say there is not enough money. So we are back to 1986 again? Will they provide staff and effort? Please answer these questions before passing ATV registration. Don't just be punitive, please put together a complete package. People have to have a place to ride or else there is little hope to get them registered.

The last thing I worry about is that all significant ATV events in Connecticut, such as a sanctioned race, rally or event on private property should have an exemption for registration as MASS does. MASS law says they can exempt a sanctioned race, rally or event from the requirements. Respectfully Submitted,  
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Jerry Shumers

# TRANSPORTATION LAW JOURNAL

*INDUSTRY LEADER IN MULTI-MODAL LAW, ECONOMICS & POLICY*

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Taxi Industry Regulation, Deregulation &  
Reregulation: The Paradox of Market Failure

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nies.<sup>1</sup> Deregulation emerged in a comprehensive ideological movement which abhorred governmental pricing and entry controls as manifestly causing waste and inefficiency, while denying consumers the range of price and service options they desire.<sup>2</sup>

In a nation dedicated to free market capitalism, governmental restraints on the freedom to enter into a business or allowing the competitive market to set the price seem fundamentally at odds with immutable notions of economic liberty. While in the late 19th and early 20th Century, market failure gave birth to economic regulation of infrastructure industries, today, we live in an era where the conventional wisdom is that government can do little good and the market can do little wrong.<sup>3</sup>

Despite this passionate and powerful contemporary political/economic ideological movement, one mode of transportation has come full circle from regulation, through deregulation, and back again to re-regulation—the taxi industry. American cities began regulating local taxi firms in the 1920s. Beginning a half century later, more than 20 cities, most located in the Sunbelt, totally or partially deregulated their taxi companies. However, the experience with taxicab deregulation was so profoundly unsatisfactory that virtually every city that embraced it has since jettisoned it in favor of resumed economic regulation.

Today, nearly all large and medium-sized communities regulate their local taxicab companies. Typically, regulation of taxicabs involves: (1) limited entry (restricting the number of firms, and/or the ratio of taxis to population), usually under a standard of “public convenience and necessity,” [PC&N] (2) just, reasonable, and nondiscriminatory fares, (3) service standards (e.g., vehicular and driver safety standards, as well as a common carrier obligation of nondiscriminatory service, 24-hour radio

1. Such legislation includes the Air Cargo Deregulation Act of 1977, the Airline Deregulation Act of 1978, the International Air Transportation Competition Act of 1979, the Staggers Rail Act of 1980, the Motor Carrier Act of 1980, the Household Goods Transportation Act of 1980, the Bus Regulatory Reform Act of 1982, the Civil Aeronautics Board Sunset Act of 1984, the Surface Freight Forwarder Deregulation Act of 1986, the Negotiated Rates Act of 1993, the Trucking Industry Regulatory Reform Act of 1994, and Title VI of the Federal Aviation Act of 1994. See generally, PAUL DEMPSEY & WILLIAM THOMS, *LAW & ECONOMIC REGULATION IN TRANSPORTATION* (1986), and PAUL DEMPSEY, ROBERT HARDAWAY & WILLIAM THOMS, *AVIATION LAW & REGULATION* (1993). Note however, that although the U.S. Congress has preempted much of state and local regulation of the airline, railroad, and trucking industries, economic regulation of the surface passenger transportation industry has remained largely untouched by federal preemption.

2. See, e.g., PAUL DEMPSEY, *THE SOCIAL & ECONOMIC CONSEQUENCES OF DEREGULATION* (1989); PAUL DEMPSEY & ANDREW GOETZ, *AIRLINE DEREGULATION & LAISSEZ FAIRE MYTHOLOGY* (1992).

3. See generally Paul Dempsey, *Market Failure and Regulatory Failure As Catalysts for Political Change: The Choice Between Imperfect Regulation and Imperfect Regulation*, 46 *WASH. & LEE L. REV.* 1 (1989).

Proponents of deregulation argued that eliminating pricing and entry regulation of the taxicab industry would lower prices, improve service, and provide a wider variety of price and service options dictated by consumer demand, thereby fostering efficient resource allocation.<sup>151</sup> As one source observed, "the argument is often made solely on ideological grounds: the competitive free market in search of profit will always provide better and more efficient services."<sup>152</sup> More specifically, it has been alleged that deregulation would:

- Produce more taxi service and faster response times;
- Create service innovations and service expansion to poorly served neighborhoods;
- Lower fares; and
- Reduce government costs by eliminating oversight of pricing, service and entry.<sup>153</sup>

Most of these predictions have been based on free market economic theory which has driven much of deregulation in transportation since the late-1970s, insisting that government creates distortions which thwart market incentives for productivity, efficiency, and lower consumer prices.<sup>154</sup> Unfortunately, as we have seen, the taxi industry fails to reflect the perfect competition model described in micro-economic textbooks. Professor Roger Teal, who has written extensively on the subject of taxicab deregulation, offered an explanation for the wide divergence between free market predictions of what deregulation should produce, and the empirical reality of what it actually has produced:

The emphasis placed by industrial organization principles on actual conditions in markets (and on the distortions which monopoly power creates in real-world markets) proves more useful than simple micro-economic theory

151. "Students of economics and urban transportation frequently cite the limitation on the number of taxicabs in most American cities as a clear case of unwise government policy. They argue that a limitation on the number of cabs can only operate to raise the price and decrease the supply of taxicab service as compared to that which would otherwise be provided." KITCH, ET AL., *supra* note 150, at 285. ("The authors of this article share the academic view.") *Id.* See also ROGER TEAL & MARY BERGLUND, *EXPLAINING THE IMPACTS OF TAXICAB DEREGULATION IN THE USA 2* (1986); ROGER TEAL, ET AL., *URBAN TRANSPORTATION DEREGULATION IN ARIZONA 26* (1983); GILBERT & SAMUELS, *supra* note 10, at 146.

152. Rosenbloom, *supra* note 13.

153. FRANKENA & PAUTLER, *supra* note 9, at 75; PRICE WATERHOUSE, *ANALYSIS OF TAXICAB DEREGULATION AND RE-REGULATION I*, 6 (1993); Teal & Berglund, *supra* note 4, at 39. In contrast, opponents of deregulation contend that deregulation will:

- Result in poorer service;
- Reduce safety;
- Produce less accountability; and
- Produce less reliability.

PRICE WATERHOUSE, *supra* at 1.

154. See, e.g., PAUL DEMPSEY, *THE SOCIAL & ECONOMIC CONSEQUENCES OF DEREGULATION* (1989); DEMPSEY & GOETZ, *supra* note 2; PAUL DEMPSEY, ET AL., *supra* note 1.

for analyzing the impacts of taxicab deregulation. Simple models of competitive behavior involving atomistic producers selling to completely-informed consumers are often used, but these theoretical generalizations of ideal types provide no useful or interesting explanations for the results observed in the dominant taxi markets — telephone orders and cabstands.<sup>155</sup>

Similarly, Sandra Rosenbloom, a scholar whose earlier literature embraced the unregulated free market position on this subject, concludes:

Unfortunately, an examination of empirical data on regulatory reform of the taxi industry to date shows few of the benefits claimed by proponents. . . .

[M]ost anticipated economic outcomes did not materialize. The irony is that free-market private taxis simply don't act like entrepreneurs in a free market.<sup>156</sup>

#### VII. EMPIRICAL RESULTS OF OPEN ENTRY IN THE TAXICAB INDUSTRY

Yet we need not rely on the theoretical assumptions of what unlimited entry will produce. We have empirical results which we can assess to determine what deregulation of the taxicab industry has produced. Before 1983, some twenty-one cities deregulated taxicabs in whole or part.<sup>157</sup>

The experiences of these cities reveal that taxicab deregulation resulted in:

1. A significant increase in new entry;
2. A decline in operational efficiency and productivity;
3. An increase in highway congestion, energy consumption and environmental pollution;
4. An increase in rates;
5. A decline in driver income;
6. A deterioration in service; and
7. Little or no improvement in administrative costs.

Let us examine each of these results.

##### A. ENTRY

Deregulation proponents were correct in their predictions that removing entry restrictions would result in increased entry into the industry. Because of the low cost of entry into the taxicab business (i.e., a driver's license, and a down payment on an automobile),<sup>158</sup> deregulation

155. Teal & Berglund, *supra* note 4, at 47 [citation omitted, and the King's English spelling employed in the original].

156. Rosenbloom, *supra* note 13.

157. U.S. DEP'T OF TRANSP., *supra* note 6, at III.

158. Shreiber, *supra* note 117, at 275.