

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

House Bill 667 (Delegates Boschert and Love)
 Economic Matters

Maryland Locksmiths Act

This bill establishes application and licensing procedures (including criminal background checks and photo identification); sets forth the authority of the Secretary of Labor, Licensing, and Regulation in administering the bill; establishes violations related to the provision of locksmith services for licensed and nonlicensed individuals and establishes civil and criminal penalties; and requires the Secretary to report to specified committees of the General Assembly assessing the appropriateness of the fees charged to licensed locksmiths.

Fiscal Summary

State Effect: General fund expenditures could increase by \$187,000 (excluding indirect costs) in FY 2007. Out-years reflect annualization and inflation. General fund revenues could increase by \$154,000 in FY 2007. Out-years reflect staggered license renewals and a stable licensing population after FY 2008. Potential general fund revenue increases due to collection of civil and criminal penalties are not reflected but are assumed to be minimal.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	\$154,000	\$154,000	\$154,000	\$154,000	\$154,000
GF Expenditure	187,000	118,700	125,300	132,300	139,900
Net Effect	(\$33,000)	\$35,300	\$28,700	\$21,700	\$14,100

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local revenues could increase due to collection of criminal penalties, in the event cases are brought in circuit court. Any increase is assumed to be minimal.

Small Business Effect: Small locksmith businesses would incur costs due to licensing fees and background checks and possibly increased insurance premiums if a business was not maintaining liability insurance at the level set by regulation.

Analysis

Bill Summary: Except as provided under the provisions of the bill, a person may not engage or solicit to engage in the business of providing locksmith services in the State, unless licensed by the Secretary of Labor, Licensing, and Regulation.

A “locksmith” is defined as a person who engages in the business of rekeying, installing, repairing, opening, and modifying locks or who originates keys for locks. The bill lists a number of persons whom the Act does not apply to if the persons do not hold themselves out as locksmiths including specified tow truck operators, agents or employees of a retail establishment whose primary business is not providing locksmith services, law enforcement officers, and firefighters and emergency medical personnel.

Licensing

An individual or a firm may be licensed. An individual or each individual in a firm must be at least 18 years old and of good moral character. An application must be submitted showing proof of general liability insurance along with an application fee, a set of legible fingerprints, a passport-size photograph, and any other information the Secretary may require. Each applicant or each individual in a firm applying for a license must undergo a State and national criminal history records check. Upon meeting the application requirements and requirements of any regulations adopted by the Secretary, a license and identification card is issued to the applicant. The license is nontransferable and lasts for two years. A license may be renewed, but it may not be renewed after its expiration.

Violations

The Secretary may deny an applicant a license, reprimand a licensee, suspend or revoke a license, or impose a civil penalty on a licensee for repeated violations of the bill and other offenses including fraudulently or deceptively obtaining or using a license and being involved in a crime substantially related to the qualifications, functions, or duties of a locksmith. Any act or omission of any principal, agent, or employee of an applicant or licensee is construed to be the act or omission of the applicant or licensee as well as the principal, agent, or employee.

Before taking any final action, the Secretary must afford the person against whom action is contemplated, notice and opportunity for a hearing. Any person aggrieved by a final action of the Secretary may appeal the action to a circuit court.

A license is automatically suspended if a licensee is convicted of any crime reasonably related to the functions, duties, and responsibilities of a locksmith. A licensee may request a hearing as to whether the crime is reasonably related to the functions, duties, and responsibilities of a locksmith. The suspension is not stayed during the administrative review.

Additional Prohibited Acts

A person may not advertise as a licensed locksmith without stating the person's license number in the advertisement. A licensee may not willfully or deliberately disregard any building or safety laws; may not fail in any material respect to complete the installation, repair, opening, or modification of a lock for the price stated in the contract for services; and may not knowingly aid or abet an unlicensed locksmith in an activity requiring a license or in the commission of a crime. A person in violation of these provisions is guilty of a misdemeanor and subject to a fine of up to \$5,000 or imprisonment for up to one year, or both.

A person who holds oneself out as or impersonates a locksmith, without a license, is guilty of a misdemeanor and subject to a fine of up to \$1,000 and on a second or subsequent conviction, a fine of up to \$5,000. The Secretary, after giving notice and opportunity for a hearing to a person in violation of this provision may order the person to cease and desist and impose a civil penalty of up to \$100 for each day of unlawful practice.

A person who engages in repeated violations of the bill in general is guilty of a misdemeanor and subject to a fine of up to \$2,500.

Powers and Duties of the Secretary

In addition to other powers and duties stated in the bill, the Secretary must adopt regulations that set licensing standards and may adopt other regulations to carry out the provisions of the bill. The Secretary must keep a roster of licensed locksmiths and may make inquiries and conduct an investigation regarding an applicant for a license.

Termination

Subject to a program evaluation under the Maryland Program Evaluation Act, the Maryland Locksmiths Act and any regulations adopted pursuant to it terminate after June 30, 2011.

Deadline for Licensing

A person performing locksmith services must be licensed on or before March 31, 2007.

Reporting

The Secretary is required to report to the Senate Finance Committee and the House Economic Matters Committee on or before December 31, 2008, assessing the appropriateness of the fees charged to licensed locksmiths.

Current Law: None applicable.

Background: There are currently 22 general categories of professions regulated under the Division of Occupational and Professional Licensing of the Department of Labor, Licensing, and Regulation (DLLR). The most recent comprehensive occupational and professional regulation legislation to be enacted was that for stationary engineers pursuant to the Maryland Stationary Engineers Act, enacted by Chapter 613 of 2005, which created a statewide Board of Stationary Engineers, taking the place of the existing Board of Examining Engineers.

The division administers a similar regulatory program to that proposed by this bill, for secondhand precious metal object dealers, in which fingerprinting and a criminal background check are required of applicants but not an examination or qualifications based on competency.

California, Illinois, North Carolina, Nebraska, New Jersey, and Nevada currently have laws regulating locksmiths.

State Revenues: General fund revenues would increase due to the collection of license fees; however, the number of licensees that would be regulated is hard to determine. DLLR estimates approximately 1,000 individuals and businesses would become licensed (which assumes the bill requires both a locksmith firm and each locksmith employed by the firm to be licensed). Based on that assumption and taking into account the estimated costs of the regulatory program (discussed below), DLLR estimates the license issuance fee would be roughly \$360 (including the \$52 fee for State and national background checks) and renewal fees would be \$308, to cover the direct costs of the program over a

period of five fiscal years. The estimate in **Exhibit 1** assumes 50% of these licensees would become licensed in fiscal 2007 and 50% in fiscal 2008 and that the licensee population would remain stable in out-years (nonrenewals balanced by new licensees). The estimate does not include the background check fees, which would be treated as special funds and paid to the Department of Public Safety and Correctional Services.

Exhibit 1
Estimated Revenues (based on licensee population of 1,000)
Fiscal 2007 – 2011

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Estimated New Licensees	500	500	50	50	50
Estimated Renewal Licensees			450	450	450
Estimated Revenue	\$154,000	\$154,000	\$154,000	\$154,000	\$154,000

Note: Fee revenue does not include \$52 for criminal history background checks, payable by applicants.

General fund revenues could also increase due to the Secretary's ability to impose civil penalties. The amount of any revenue generated by way of penalties cannot be reliably estimated, but it is assumed to be minimal.

The criminal penalty provisions of this bill are not expected to significantly affect State revenues.

State Expenditures: The bill creates a new regulatory program within DLLR. As a result, DLLR's general fund expenditures could increase by an estimated \$186,989 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring one administrator and one office secretary to administer the regulatory program established by the bill. It includes salaries, fringe benefits, one-time start-up costs (including electronic licensing and database programming as well as equipment and programming to provide photo licensing), and ongoing operating expenses (including communications expenses for outreach to the regulated community).

Computer Programming	\$80,000
Salaries and Fringe Benefits	79,199
One-time Equipment Cost	20,000
Operating Expenses	<u>7,790</u>
Total FY 2007 State Expenditures	\$186,989

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The criminal penalty and administrative hearing provisions of this bill are not expected to significantly affect State expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of Administrative Hearings; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2006
nas/ljm

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