

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 507

(Senator Conway, *et al.*)

Education, Health, and Environmental Affairs

Economic Matters

Maryland Locksmiths Act

This bill requires persons providing locksmith services to be licensed by July 1, 2010; 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 and adopting and enforcing regulations; 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 competency-based credentials for licensed locksmiths and the nature and number of complaints regarding locksmiths.

Fiscal Summary

State Effect: General fund expenditures increase by \$83,900 in FY 2010 to begin licensing in the Department of Labor, Licensing, and Regulation (DLLR). Out-years reflect annualization and inflation. General fund revenues increase by \$84,400 in FY 2010. Out-years reflect staggered license renewals and increase in new licenses after FY 2011. Potential additional minimal general fund revenue and expenditure increases due to the bill's civil and criminal penalties.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$84,400	\$84,400	\$88,700	\$88,700	\$93,200
GF Expenditure	\$83,900	\$82,600	\$70,400	\$73,400	\$76,500
Net Effect	\$400	\$1,800	\$18,200	\$15,200	\$16,600

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

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Licensing and Expectations of Licensees

To obtain a license, an applicant must provide the name, birth date, address, and telephone number of the business owner and each employee; a passport photo of the applicant and each employee; any locations where the applicant has conducted business during the past 36 months; the driver's license number of the owner and each employee; and the insurance policy number and name of the general liability insurer required by the bill. An applicant must be at least 18 years old. Applicants, and all prospective employees who are to perform locksmith services on behalf of a licensed locksmith, must also undergo a State and national criminal background check and pay all associated fees. The Secretary must periodically verify the continued employment or licensure of individuals who require criminal background checks.

The State may issue licenses only to applicants who have a fixed business address. Licenses cannot be granted for an address that is a hotel or motel room, a motor vehicle, or a post office box. Making a false statement on an application is a misdemeanor, and may result in a \$10,000 fine, a two-year prison sentence, or both.

Licensed locksmiths must maintain general liability insurance in the amount of at least \$300,000, with appropriate coverage for the practice of the business. Licensees are required to give the State 10 days notice prior to cancelling a policy.

A license is valid for two years, and prior to expiration, a license may be renewed for an additional two-year term. DLLR is required to mail a renewal notice to the licensee at least 60 days prior to expiration. The licensee must agree to continue to comply with each requirement applicable to the original application.

Licensees must display the license conspicuously at the place of business. The owner of a business must issue a photo identification card to each employee who provides locksmith services on behalf of the business, and employees are required to display the card while providing services on behalf of the business. Any advertisements, business cards, or other public notifications must include the name and license number of the licensed locksmith.

For a business to change its fixed address, the owner must submit a written request on the appropriate form. The Secretary must respond to the request within 45 days. If the change is approved, the business is issued a revised license that reflects the new address.

Grounds for Suspension or Revocation of a License

The Secretary may deny a license, reprimand a licensee, or suspend or revoke a license if the applicant, licensee, or agent thereof:

- fraudulently uses or attempts to obtain a license or identification card for another person;
- attempts to use an expired, suspended, or revoked license or false photo identification card;
- fails to maintain liability insurance;
- had a similar license or certificate denied, suspended, or revoked in another jurisdiction;
- has been convicted of a felony or a misdemeanor related to the fitness and qualification of the applicant or licensee, or knowingly employs a person who has been convicted of such a crime;
- engages in a pattern of unfair or deceptive trade practices under the Maryland Consumer Protection Act, as determined by a final administrative order or judicial decision;
- knowingly uses or allows the use of any of the licensee's or an employee of the licensee's skills, tools, or facilities for the commission of a crime; or
- fails to provide, or misrepresents any information required to be provided by law or adopted regulation.

Instead of, or in addition to, reprimanding, suspending, or revoking a license, the Secretary may penalize a licensee up to \$5,000 for each violation of the bill. Licensees have the opportunity for a hearing before the Secretary takes any final action and may file an administrative appeal.

Invoice and Record-keeping Requirements

Licensed locksmiths must include the following information on each receipt or invoice: the location where the services were provided; the type of lock serviced; a vehicle identification number, if applicable; and the estimated and actual costs of the service. Locksmiths are required to keep service records that include the aforementioned information at the fixed business address for three years from the date of the service call. Upon request, a licensee must provide to law enforcement or DLLR a copy of an invoice

or receipt for services. Records submitted to a law enforcement unit or DLLR are confidential.

Additional Prohibited Acts

Locksmiths or their employees are guilty of a misdemeanor if they intentionally violate building or safety laws; use their skills, tools, or facilities to facilitate unlicensed or criminal activity; or fail in any material respect to complete the installation, repair, opening, or modification of a lock for a stated price. Individuals who violate these provisions may be fined up to \$10,000, imprisoned up to two years, or both. Individuals who impersonate a locksmith may be fined up to \$1,000 for a first offense and up to \$5,000 for subsequent offenses. The Secretary may also bring civil administrative action against individuals who violate these provisions. Following an administrative hearing, the Secretary may impose additional fines of \$100 for each day of unlawful behavior. The subject of the hearing may file an administrative appeal.

Exemptions

The bill does not prohibit:

- emergency responders from performing emergency opening services in the line of duty;
- the replacing of the core or cylinder of a lock that was designed by the manufacturer to be changed by an end user;
- the installation or repair of a lock by the manufacturer of the lock;
- sales demonstrations by locksmith suppliers;
- the installation of locks by building trades personnel on projects that require a building permit;
- key duplication;
- the installation of locks by a retailer at his or her place of business, or off premises if the installation is incidental to the retailer's normal course of business;
- the installation of locks by a licensed security systems technician; or
- the installation, repair, replacement, rekeying, or adjusting of locks by a property owner or management company.

Current Law: None applicable.

Background: From 2005 to 2006 the number of complaints about locksmiths received by the Better Business Bureau (BBB) increased almost 75%. According to BBB, several locksmith companies, all using similar methods, are significantly overcharging

consumers – often for unnecessary services – and failing to give refunds or respond to consumer complaints. These companies pose as local locksmiths using local phone numbers and fake street addresses. Consumers think they are dealing with a local business, but inquiries are forwarded to a national call center. Typically, the actual price for services is significantly higher than the price quoted over the phone and cash is often the only accepted form of payment.

Alabama, California, Illinois, Louisiana, New Jersey, North Carolina, Oklahoma, Tennessee, and Texas require locksmiths to be licensed in a fashion similar to the provisions of the bill.

State Revenues: DLLR projects an initial and renewal licensure fee of \$225 and that it will issue 375 licenses per year in fiscal 2010 and 2011, 394 licenses per year in fiscal 2012 and 2013, and 414 licenses in fiscal 2014. The out-year increases reflect license renewal and an anticipated 5% increase in new licenses.

Due to the collection of license fees, general fund revenues increase \$84,375 in fiscal 2010. Although the licensure requirement does not take effect until July 1, 2010, DLLR anticipates that 375 locksmiths or businesses will establish their licensure in order to be in compliance by July 1, 2010.

State Expenditures: DLLR’s general fund expenditures increase by an estimated \$83,933 in fiscal 2010, which accounts for the bill’s October 1, 2009 effective date. The estimate reflects the cost of hiring one administrator to manage the regulatory program established by the bill. This includes a salary, fringe benefits, start-up costs (including electronic licensing), and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$38,985
Contractual Services (electronic licensing and printing)	37,500
One-time Start-up Costs	4,500
Ongoing Operating Expenses	<u>2,948</u>
Total FY 2010 State Expenditures	\$83,933

In fiscal 2011, DLLR anticipates a \$15,000 expenditure for the electronic licensing system. After fiscal 2011, the system does not require funding. Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% annual increases in operating expenses.

Small Business Effect: Most locksmiths are considered small businesses and would bear additional costs associated with licensing, background check fees (\$57.25 for each State and national check), issuance of photo identification cards, compliance with

record-keeping requirements, and liability insurance (if they do not already have such insurance). These costs may be a considerable burden on small businesses; however, licensees benefit from increased legitimacy and a reduction in competition with locksmiths who currently operate without a fixed business address and those unable or unwilling to comply with the requirements of the new law.

Additional Information

Prior Introductions: HB 667 of 2006, which would have established licensure of locksmiths, received an unfavorable report from the House Economic Matters Committee.

Cross File: HB 370 (Delegate King, *et al.*) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of State Police; Department of Public Safety and Correctional Services; Better Business Bureau; Federal Trade Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2009
ncs/mcr Revised - Senate Third Reader - April 2, 2009

Analysis by: Michael T. Vorgetts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510