

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 291

(Delegate King)

Economic Matters

Education, Health, and Environmental Affairs

Maryland Locksmiths Act - Revisions - Definitions and Records Inspection

This bill allows licensed locksmiths to maintain their fixed business address outside the State and requires them to make required records available for inspection by the Department of Labor, Licensing, and Regulation (DLLR) after receiving reasonable notice.

Fiscal Summary

State Effect: None. The change is clarifying in nature and does not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill alters the definition of “fixed business address” to mean a single location, not necessarily in Maryland, where a licensee conducts business and at which the licensee or an employee is available. A “local law enforcement unit” means the Department of State Police or a police or sheriff’s department in the State that is designated by a local government for licensees with in-state addresses. The Secretary of Labor, Licensing, and Regulation must designate the appropriate law enforcement unit for licensees located outside of Maryland.

Current Law: Chapters 551 and 552 of 2009 (the Maryland Locksmiths Act) establish that persons or businesses that provide locksmith services in the State must be licensed by

July 1, 2010. However, DLLR advises that a necessary appropriation for the locksmith licensing program has not yet been made; therefore, licensure of locksmiths will not begin by the startup date specified by the Act.

Chapters 551 and 552 specify that the State may issue licenses only to applicants who have a fixed business address in the State. A “fixed business address” is defined to mean a single, physical location in the State where a licensee regularly conducts business and at which the licensee or an employee of the licensee is physically present during normal business hours or other hours as designated by the licensee. Licenses cannot be granted for an address that is a hotel or motel room, a motor vehicle, or a post office box.

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 this 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.

Background: According to the Attorney General, the definition of “fixed business address” in Chapters 551 and 552 – in that the location must be in Maryland – violates the Commerce Clause of the U.S. Constitution. The clause grants the U.S. Congress the power to “regulate Commerce with foreign Nations, and among the several States and with the Indian Tribes.” The clause is also understood to prohibit states from interfering with, or imposing burdens on, interstate commerce. This aspect of the clause prohibits economic protectionism – regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors.

Because out-of-state applicants were excluded by Chapters 551 and 552, the bill may result in additional applicants for licensure as locksmiths. However, the Attorney General advised that the prohibition against out-of-state fixed business addresses was severable and could not be enforced. Therefore, out-of-state locksmiths were already eligible for licensure.

Additional Information

Prior Introductions: None.

Cross File: SB 512 (Senator Conway, *et al.*) – Education, Health, and Environmental Affairs.

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

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