

- SUBJECT:** Creating a voluntary registration program for locksmiths
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 6 ayes — Wilson, Yarbrough, Goolsby, Haggerty, Moreno, A. Reyna
0 nays
3 absent — Flores, D. Jones, Wise
- WITNESSES:** For — *Registered but did not testify:* W. Mike Clark, Locksmiths Association of Texas; Jim Hetchler, Texas Locksmith Association; C.D. Lipscomb, Greater Dallas Locksmiths Association and Metroplex Locksmith Association; David M. Lowell, Associated Locksmiths of America; Eddie L. Stites

Against — J.D. Benfer, Texas Burglar and Fire Alarm Association; *Registered but did not testify:* Roger W. Byrd and Ruben Fechner, Texas Burglar and Fire Alarm Association

On — *Registered but did not testify:* William H. Kuntz, Jr., Texas Department of Licensing and Regulation
- BACKGROUND:** Occupations Code, chapter 1702 requires licensure of people that work in certain security-related fields, including selling, installing, or responding to alarm systems, selling or training guard dogs, and operating armored cars, among others. To qualify for a license, a person must have a certain number of years of experience, must pass an examination, and may not:
- ! have been convicted of a felony, unless a pardon has been granted;
 - ! have been convicted of a misdemeanor involving moral turpitude during the seven-year period before the date of application;
 - ! have been found incompetent by a court;
 - ! suffer from habitual drunkenness or a narcotics addiction; or
 - ! have been discharged from the U.S. military under other than honorable conditions.

DIGEST: HB 1077 would create a voluntary certification program for locksmiths under the Texas Commission of Licensing and Regulation. The bill would define a locksmith as a person who engages in the business of installing or repairing locks and related security and access-control devices.

Only a certificate holder could advertise that the person was registered with the state as a locksmith. To be eligible to register with the commission, a person would have to maintain general liability insurance coverage with a minimum value of \$50,000 for each occurrence, whether the claim arose out of negligence or breach of contract. Convicted felons could not register until the fifth anniversary of the date the person's voting rights were restored. The commission would have to conduct a criminal background check of all applicants for locksmith certification to determine if an applicant had been convicted of a felony.

Certificate holders would have to post a performance bond if requested by a customer in the amount requested, but not to exceed \$25,000.

The commission could deny, suspend, or revoke a certificate. A person who knowingly represented himself as a registered locksmith without holding a certificate or who knowingly or negligently provided false information on an initial or renewal application for a certificate would be subject to an administrative penalty under Occupations Code, chapter 51, which allows a fine of no more than \$1,000 for each violation.

CSHB 1077 would not apply to a person licensed by the Texas Commission on Private Security or to the installation of locks and related security and access-control devices in a new residential building.

The bill would take effect January 1, 2002.

SUPPORTERS SAY: By creating a voluntary registration program for locksmiths that would ensure that these locksmiths met certain criteria, CSHB 1077 would help consumers make more informed choices when selecting locksmiths.

In the course of performing their jobs, locksmiths obtain access to people's homes and places of business, yet consumers have almost no information about these people and no way of determining whether the locksmiths they

hire have been convicted of crimes. Under CSHB 1077, a person hiring a registered locksmith to install a lock or access-control device would be assured that the locksmith was not a former felon, except in cases where the person's voting rights had been restored for at least five years, and met other criteria, including insurance requirements and any other rules adopted by the commissioner.

The bill would be purely voluntary and would not prohibit a locksmith from continuing to provide services if that locksmith chose not to register. That person would be prohibited only from representing himself as a registered locksmith.

CSHB 1077 would not allow any person to sell, install, or monitor alarm systems without a license, as any person engaged in these activities still would have to obtain a license under the Occupations Code. No provision of CSHB 1077 would limit the application of current law. However, registered locksmiths, like all locksmiths, could install or repair locks or related security and access-control devices. These devices, whether keypads or access card systems, serve the same purpose as a lock and key and should be considered part of the locksmith profession.

OPPONENTS
SAY:

The bill should prohibit locksmiths from selling or installing access-control devices and other related security devices without a license similar to that required to sell or install alarm systems. Unlike a simple lock and key, these devices are installed for people or businesses who need higher levels of security. These customers should be assured that a person handling these devices meets the stricter criteria required of security systems professionals. Requiring the licensure of all locksmiths would be even better, since these professionals have access to people's homes and businesses.

OTHER
OPPONENTS
SAY:

The advertising restrictions that CSHB 1077 would impose are not strict enough to ensure that a consumer wanting to hire a registered locksmith actually would get a registered locksmith. For example, a person who ran a locksmith company and hired both registered and unregistered locksmiths could advertise that the company employed registered locksmiths. A consumer calling the company on the basis of that ad, however, probably would assume that the company employed only registered locksmiths and would not realize the necessity of specifically requesting a registered

locksmith. Unscrupulous business owners could circumvent the advertising limitations and send unregistered locksmiths to customers who believed they were hiring registered locksmiths. The bill should clarify these provisions to close this loophole.

NOTES:

The committee substitute removed provisions in the original bill that would have made it a criminal offense to represent oneself falsely as a registered locksmith or knowingly to misrepresent oneself on an application or renewal for a certificate, and it added administrative penalties for these violations. The substitute also require the commissioner to revoke a person's certificate for certain criminal offenses. The substitute added provisions authorizing the commissioner to prescribe fees for the renewal or reissuance of a certificate and raised the maximum application fee from \$75 to \$225.