

BILL ANALYSIS

Senate Research Center

H.B. 1077
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State Affairs
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Engrossed

DIGEST AND PURPOSE

Currently, the state does not require locksmiths to be registered for certification. Locksmiths across the state support the high standard and quality of their profession by increasing their knowledge, experience, and skill and encouraging the use of goods and services of their fellow locksmiths. H.B. 1077 establishes provisions for the voluntary registration of locksmiths.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of the Texas Commission of Licensing and Regulation in SECTION 1 (Sections 1705.056 and 1705.201, Occupations Code).

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 10, Occupations Code, by adding Chapter 1705, as follows:

CHAPTER 1705. LOCKSMITHS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1705.001. DEFINITIONS. Defines "certificate," "commission," "commissioner," and "locksmith.

Sec. 1705.002. POWERS AND DUTIES OF COMMISSIONER AND COMMISSION. Requires the commissioner of licensing and regulation (commissioner) to enforce this chapter and authorizes the commissioner to adopt rules relating to all provisions of this chapter. Requires the commissioner to prescribe application forms for certificates and to design the certificates, including an identification numbering system for certificates, cards, and other documents necessary to administer this chapter. Authorizes the Texas Commission of Licensing and Regulation (commission) to prescribe fees for the renewal or reissuance of a certificate, for the issuance of an updated certificate to reflect a change of address, business name, insurance carrier, or other pertinent information, and for the administration of other functions that the commissioner may perform in administering and enforcing this chapter. Authorizes the commissioner to exercise discretion in informally addressing any technical violation of this chapter that is self-reported by a certificate holder.

Sec. 1705.003. EXEMPTIONS. Provides that this chapter does not apply to a person licensed by the Texas Commission on Private Security. Provides that this chapter does not apply to the installation of locks and related security and access control devices to a new structure to be used as a residence.

Sec. 1705.004. ELECTRONIC AVAILABILITY OF INFORMATION. Requires the commission to work with the comptroller and otherwise take steps to make available to the public, through the Internet, information regarding the issuance, revocation, and suspension of certificates.

[Reserves Sections 1705.005-1705.050 for expansion]

SUBCHAPTER B. CERTIFICATE REQUIREMENTS

Sec. 1705.051. VOLUNTARY REGISTRATION. Provides that the registration program established under this chapter is voluntary. Requires a locksmith who wishes to hold a certificate to comply with this chapter. Authorizes only a certificate holder to advertise that the person is registered with the state as a locksmith.

Sec. 1705.052. APPLICATION ON FORM PRESCRIBED BY COMMISSIONER. Requires an application for a certificate to be made on a form prescribed by the commissioner.

Sec. 1705.053. INDIVIDUAL APPLICATION FOR CERTIFICATE. Requires a person to be a locksmith in order to be eligible for a certificate. Sets forth requirements for an application.

Sec. 1705.054. CRIMINAL HISTORY RECORD CHECK REQUIRED. Requires the commission, before issuing a certificate to an individual, to conduct a criminal background check under Section 411.122, Government Code, to determine whether the applicant has been convicted of a felony.

Sec. 1705.055. EFFECT OF CRIMINAL CONVICTION. Provides that a person who has been convicted of a felony is not eligible for a certificate until the fifth anniversary of the date the person's voting rights were restored. Requires the commissioner to revoke the certificate of a certificate holder who is imprisoned as a result of a felony conviction, felony community supervision revocation, parole revocation, or revocation of mandatory supervision. Authorizes a person convicted of a felony whose voting rights have been restored for at least five years to apply for and receive a certificate if the commissioner determines that issuing a certificate does not pose a threat to public safety. Authorizes the commissioner to make certain considerations in making the determination under this subchapter. Authorizes a person who is denied a certificate under this section to appeal the commissioner's determination not later than the 90th day after the date of the issuance of a letter of denial. Provides that an appeal under this subsection is subject to Chapter 2001, Government Code.

Sec. 1705.056. INSURANCE REQUIREMENT. Requires each certificate holder to maintain general liability insurance coverage with a minimum value of \$50,000 for each occurrence, whether the claim arises out of negligence or breach of contract. Authorizes the commissioner to adopt rules for determining, electronically or otherwise, whether a certificate holder has and maintains the prescribed insurance coverage. Authorizes the commissioner to require each applicant and certificate holder to provide information as necessary to enforce this section.

[Reserves Sections 1705.057-1705.100 for expansion]

SUBCHAPTER C. CERTIFICATE RENEWAL

Sec. 1705.101. ANNUAL RENEWAL. Sets forth guidelines regarding the annual renewal of a certificate.

[Reserves sections 1705.102-1705.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY CERTIFICATE HOLDER

Sec. 1705.151. BOND REQUIREMENT. Requires a certificate holder, if requested by a customer, to post a performance bond in the amount requested by the customer, but not to

exceed \$25,000.

[Reserves Sections 1705.152-1705.200 for expansion]

SUBCHAPTER E. CERTIFICATE DENIAL AND DISCIPLINARY PROCEDURES

Sec. 1705.201. DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATE. Sets forth guidelines regarding a violation of this chapter or a rule adopted under this chapter.

Sec. 1705.202. COMPLICITY. Prohibits a person from aiding or abetting a person to violate this chapter.

Sec. 1705.203. FALSE REPRESENTATION AS REGISTERED LOCKSMITH; ADMINISTRATIVE PENALTY. Provides that a person who knowingly represents that the person is registered as a locksmith in this state without holding a certificate is subject to an administrative penalty under Chapter 51. Prohibits a person required to pay an administrative penalty based on conduct described by this section from applying for a certificate under this chapter before the 10th anniversary of the date the penalty was imposed.

Sec. 1705.204. PROVIDING FALSE INFORMATION ON APPLICATION; ADMINISTRATIVE PENALTY. (a) Provides that a person who knowingly or negligently makes a material misstatement on an initial or renewal application for a certificate is subject to an administrative penalty under Chapter 51 and other administrative sanctions.

(b) Authorizes the commissioner to exercise discretion in subjecting an applicant or certificate holder to an administrative penalty under Chapter 51 if the applicant or certificate holder made an unintentional misstatement or nonmaterial misstatement on an initial or renewal application.

SECTION 2. Effective date: January 1, 2002.