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LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

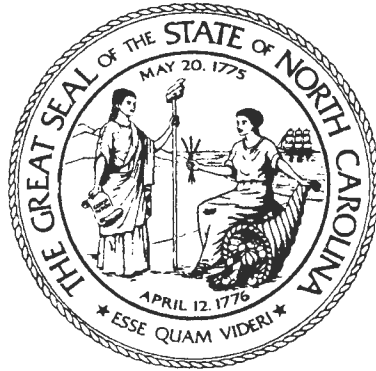
Assessment Report
For

Locksmith Licensure

House Bill 1177
Senate Bill 477

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LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

June 21, 1999

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the licensing of locksmiths. This report constitutes both the preliminary and final assessment report.

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Senator Brad Miller, Chairman

Prepared by:

Mary Shuping

Mary Shuping, Research Assistant



LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS
(1999-2000)

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 Mrs. Mary Shuping, Research Assistant



PREFACE

The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.



LOCKSMITH LICENSURE

HOUSE BILL 1177 & SENATE BILL 477

BACKGROUND

Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes and businesses. The skills necessary to be a locksmith may include,

- Picking locks or bypassing the locks on cars.
- Installing locks and access control systems.
- Re-keying locks.
- Changing combinations on safes.
- Opening safes when broken or the combination is lost.
- Repairing broken locks, safes, and access control hardware.
- Fitting keys to locks when keys are lost.

Current Standards. The locksmith profession is represented by the North Carolina Locksmith Association (NCLA), and the Associated Locksmiths of America (ALOA). These organizations set ethical standards for members; however, membership is voluntary. In addition, the ALOA offers a certification program to its members. According to information from the NCLA, less than one-half of the locksmiths in the State are members of either organization.

Number of Locksmiths in NC. The NCLA reports that there are approximately 250 locksmiths that are members of that organization. This number represents approximately one-third of all practicing locksmiths in North Carolina. However, because there is no official registry, it is not possible to determine the exact number of locksmiths in the State.

Licensure in other states. At least six other states or localities regulate locksmiths. Legislation is pending in at least five states.

¹ Source of Information: *Answers to Questions for the Legislative Committee on New Licensing Boards*. Prepared by the North Carolina Locksmith Association. May 1999. A copy of the questionnaire is attached.

Need for licensure. According to the NCLA, locksmiths should be licensed since there are no established, mandatory standards for ensuring that:

- Locksmiths are properly trained and competent.
- Locksmiths verify the legitimacy of requests to access homes, vehicles, or businesses.
- Known criminals can be prevented from holding themselves out as locksmiths and gaining access to homes, vehicles, and businesses.

HB 1177 & SB 477 – LOCKSMITH LICENSURE

Who must be licensed. HB 1177 and SB 477 would require locksmiths to be licensed in order to perform locksmith services. “Locksmith services” include repairing, rebuilding, re-keying, re-pinning, servicing, adjusting, or installing locks mechanical or electronic security devices, access control devices, egress control devices, safes, vaults, and safe deposit boxes.

Who is exempt from licensure. The following persons would be exempt from licensure:

- Members of the police or fire department or other government agencies, who in the course of their employment, open locked doors to vehicles, homes, or businesses.
- Salespersons demonstrating the use of locksmith tools to licensed locksmiths.

Qualifications for licensure. Individuals will be licensed as locksmiths by meeting all of the following:

- Is of good moral and ethical character.
- Is at least 18 years old.
- Successfully completes an exam administered by the Board.
- Pays all required fees.

“Grandfathering”/Reciprocity. Any person who submits proof to the Locksmith Licensing Board that he or she has been actively engaged as a locksmith in NC for two consecutive years prior to the enactment of the bill will be licensed without meeting the initial qualifications for licensure. These persons must pay the required fee, and must apply to the

Board within one year of the effective date of the law. (Note: SB 477 provides that a person who has performed locksmith services for two consecutive years prior to application for licensure and who is currently a locksmith will be exempt from the entire Chapter. (See. G.S. 74F-16(1), page 5, lines 34-38.))

Persons who reside in NC and have at least three years experience as a licensed locksmith in another state whose standards for licensure are substantially the same as in North Carolina may be granted a license. Nonresidents may be licensed in North Carolina if the person meets the statutory requirements, or if the person resides in a state that recognizes licenses issued by North Carolina.

Additional Requirements. House Bill 1177 and Senate Bill 477 also require the following:

- Licensees will be issued a photo identification card by the Board.
- Licenses must be posted and all advertisements must contain the licensee's identification number.
- Employers must provide to the Board the names of
 1. Persons employed by the licensee who perform locksmith services.
 2. Persons who have access to locksmith tools.
- Licensees must make a reasonable effort to verify that a customer is the legal owner of the vehicle or property prior to opening the locked door.

Fees. Fees established by the Board may not exceed the following amounts:

• Issuance of license	\$100.00
• Renewal of license (every 3 years)	\$100.00
• Examination	\$200.00
• Reinstatement	\$150.00
• Late fees	\$150.00

Locksmith Licensure Board.

Membership: The Board will consist of nine members, as follows:

- 3 locksmiths, at least one of whom must be a member of a recognized locksmith organization, appointed by the President Pro Tempore of the Senate.

- 3 locksmiths, at least one of whom must be a member of a recognized locksmith organization, appointed by the Speaker of the House.
- 3 public members appointed by the Governor.

The locksmith members of the Board must have at least five years experience in locksmith services and must continue to practice locksmith services while on the Board. Public members and their spouses are prohibited from being trained locksmiths, or having a financial interest in a locksmith business.

Powers of the Board. The Board's powers and duties include:

- Determining qualifications for licensure.
- Investigating complaints and conducting investigations.
- Issuing, denying, revoking, or suspending licenses, and conducting any disciplinary actions.
- Establishing and approving continuing education requirements.

FINDINGS AND RECOMMENDATIONS

Findings. The Legislative Committee on New Licensing Boards finds that the sponsors have met four of the six statutory criteria by which the Committee judges licensure proposals.

Specifically, the Committee finds the following:

- 1) The unregulated practice of locksmith services can substantially endanger the public health, safety, or welfare, and the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) The locksmith profession possesses qualities that distinguish it from ordinary labor.
- 3) The locksmith profession requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate a locksmith's competence.

The Committee found that the public can effectively be protected by other means. The Committee was unable to determine whether or not licensure would have a substantial adverse economic impact upon consumers of the locksmith's services.

Recommendations. The Legislative Committee on New Licensing Boards recommends the licensing of locksmiths. This assessment report constitutes both the preliminary and final assessment report for locksmith licensure. The report is based on the proposed licensing of locksmiths as set out in House Bill 1177 and Senate Bill 477, the response to the Committee's questionnaire (attached), and testimony before the Committee on June 15, 1999.



Adrian D. Busse
2003 Wake Forest Rd.
Raleigh NC 27608
(919) 828-9605
Fax (919) 829-3638

MEMORANDUM

To: Interested Parties

From: Adrian D. Busse, NCLA legislative spokesperson

RE: Answers to questions for Legislative Committee on New Licensing Boards for proposed legislation to regulate locksmiths

(1) In what ways has the marketplace failed to regulate adequately the profession or occupation?

Because there are no established standards for verifying the identity and legitimacy of persons requesting keys or entry into homes, vehicles or businesses, locksmiths who are diligent in verifying the legitimacy of such requests are at a competitive *disadvantage*. If someone asks to have a home unlocked or keys fit to a car and a conscientious locksmith refuses, they can rest assured that a less scrupulous one will be happy to take their money.

Also, since there is no registry of locksmiths (such as a license number), there are "locksmiths" who, once they stop getting calls because their d/b/a has become associated in the public's mind with shoddy workmanship, simply change their d/b/a and keep on doing business. Occasionally, these operations have gone so far as to disconnect one phone number if a complainant gets too near to making them take responsibility for damages they have caused.

Finally, there probably have been cases of outright theft by "locksmiths" from customers. However, since most citizens probably *assume* that locksmiths are regulated, they don't even think to include that guy who rekeyed the business and changed the safe combination last week on the list of suspects! In short, the marketplace is quite slow to drive someone out of business, especially in an expanding economy such as ours here in North Carolina. There is an endless supply of new, unwitting customers. And once the damage is done, the consumer has little recourse, since there isn't even a guarantee that he or she can *find* the company again.

(2) Have there been any complaints about the unregulated profession or occupation? Please give specific examples including (unless confidentiality must be maintained) complainants' names and addresses.

Every locksmith tells tales at NCLA meetings and ALOA meetings of being the second locksmith called out to a jobsite. The customer often claims that another company was called out first, got half-way into the job, botched something, then claimed they had to "go back to the shop for more parts," then never returned. When the customer calls the company to inquire as to the delay, the response could be anything from an endless (untrue) string of "we're-on-the-way's" to a denial of ever having been at the jobsite, to a disconnected phone number. There is no registry of such complainants, since there is no person or organization that is charged with maintaining one; besides, without licensure such a registry would have little hope of helping consumers who complain anyway.

(3) In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of a lack of state regulation? Please give specific examples.

Locksmiths are directly responsible for the physical security of every citizen of this state and their property. If locksmiths are unscrupulous, they can steal from anyone they chose or help thieves to do so (either through complicity or through negligence). If they are incompetent, then burglars have a real advantage in breaking in where they have worked. To wit, there was a car theft operation a few years ago. Currently in North Carolina, unless the criminal investigation turns up enough proof to put a "locksmith" behind bars, there is no way to stop him from continuing to conduct such business.

(4) Is there potential for substantial harm or danger by the profession or occupation to the public health, safety, or welfare? How can this potential for substantial harm or danger be recognized?

In answering the questions above, we have primarily addressed the dangers of locksmiths being incompetent or just negligent in verifying the legitimacy of requests to access of homes, businesses and vehicles. We have only touched on the problem of actual *criminal activity* among locksmiths. People operating locksmith businesses are constantly invited into homes and businesses, entrusted with the masterkeys and safe combinations to every business in the state. The potential for harm is beyond question. Currently, there is no way that a known criminal can be prevented from putting an ad in the phone book and having himself invited into businesses and homes as a trusted professional!! Also, there is no restriction on the sale or distribution of burglary tools. Anyone can buy the tools of the trade and use them however they see fit--until or unless they get caught.

(5) Has this potential harm or danger to the public been recognized by other states or the federal government through licensing or certification process? Please list the other states and any applicable federal law (including citations).

Many other states have chosen to regulate locksmiths. Among them are California, Nevada, Illinois, Louisiana, New Jersey, Dade County in Florida. Legislation is imminent or

pending in several other states, including Arizona, Iowa, Connecticut, Kansas and Nebraska. Specific information on the laws in other states, including text and citations, is available if requested.

(6) What will be the economic advantage of licensing to the public?

There probably would not be a widespread effect. However, there could be a huge impact for individual citizens whose property is stolen as a result of a locksmith's negligence or duplicity--such as someone whose car is stolen with the unwitting but careless help of a locksmith, or someone whose property is stolen because a "locksmith" did not install or service their locks correctly. Also, customers with grievances against a particular locksmith could be assured of contacting him by tracing his license number. Incompetent and/or unscrupulous locksmiths could no longer hide behind ever-shifting phone numbers and company names.

(7) What will be the economic disadvantage to licensing to the public?

Probably no noticeable effect for most consumers.

(8) What will be the economic advantages of licensing to the practitioners?

Probably very little effect. Licensure would make it somewhat more difficult to open a locksmith business. Specifically it would require that the person pass a preliminary competency test to show that they know something about locks before practicing as a locksmith--rather than using paying customers as guinea pigs. This may result in some attrition among "hobbyist" locksmiths. The presence of these minimally trained "hobbyist" locksmiths might keep costs for the simplest residential and automotive services somewhat depressed, and so some (probably minor) correction could result.

(9) What will be the economic disadvantages of licensing to the practitioners?

The fees may be a disadvantage for some. However, for a person who earns a living through the trade, the fee is minimal.

(10) Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

We believe that any decrease in competition or higher prices to consumers would be negligible. However, the assurance that those who hire locksmiths can trust that they didn't just give their keys to a criminal outweighs any such change. Also, consumers would have assurance that the work was performed competently and that the locksmith is accountable for any negligence or damage. In addition, it would benefit all potential future victims of burglary (that is, all of us) if the open sale of locksmith tools were stopped. Finally, setting standards for required

proof of ownership or occupancy would effectively put an end to locksmiths negligently or unwittingly helping thieves steal cars and rob homes and businesses.

(11) Please detail specific specialized skills or training that distinguish the occupation or profession from ordinary labor.

Here's a short list of skills that define a locksmith:

- Picking locks, or bypassing the locks on cars
- Installing locks and access control systems
- Rekeying locks
- Changing combinations on safes
- Opening safes when broken or the combination is lost
- Repairing broken locks, safes and access control hardware
- Fitting keys to locks when keys are lost (vehicles included)

A more complete list is available if requested.

(12) What are other qualities of the profession or occupation that distinguish it from ordinary labor?

The professional locksmith, in order to provide appropriate security services to his/her customer, must have knowledge of and access to literally thousands and thousands of different products and tools. In order to be effective in the profession, he/she must also have the esteem and trust of his/her customers and the public at large. We *literally* hold the keys to the state, and therefore must be held to high standards.

(13) Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners will be exempt, what is the rationale for the exemption?

Some practitioners would be exempt. This requirement only applies to those providing locksmith services *to the public*. Persons providing maintenance services to their employer on the company's or institution's property would not be required to get a license. For example, apartment complexes and universities who employ their own maintenance staff would not be affected by this legislation. The purpose of licensure is to protect consumers and businesses from persons advertising themselves to the public as professional locksmiths who do not meet the competency or ethical standards spelled out in the legislation. Also, this legislation specifically does not affect those already licensed as fire and burglar alarm installers.

(14) What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?

There are approximately 250 members of the North Carolina Locksmith Association. This is perhaps a third of all practicing locksmiths in the state, although with no official registry, an accurate count is impossible. As for who uses locksmiths--I am not aware of any available figures. At the consumer level, probably less than 10% of the general public use a locksmith in a given year (for anything more than a duplicate key, anyway). As for businesses (even small ones) probably very few avoid using the services of a locksmith during the course of a year.

(15) What kind of knowledge or experience does the public need to evaluate the services offered by the practitioner?

In many cases, the consumer is not in a position to discern whether a locksmith has done a good job. This is one of the reasons we believe that regulation is so important in the industry. For now, consumers should select locksmiths who list an address as well as a phone number in their advertising and check that the locksmith is bonded and insured. Participation in state or national trade associations, such as NCLA (North Carolina Locksmith Association) or ALOA (Associated Locksmiths of America), is also a good indicator of professionalism in a locksmith.

(16) Does the occupational group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service?

The locksmith profession has both state and national organizations (North Carolina Locksmith Association, and Associated Locksmiths of America, respectively), both of which set ethical standards *for members*. However, participation in these organizations is completely voluntary, and certainly less than half the locksmiths practicing in this state are members of either organization. ALOA also offers a very thorough (but again *voluntary*) certification program. As mentioned above in the answer to question 1, locksmiths who hold themselves to the standards of these voluntary organizations actually are at a competitive *disadvantage* in the current unregulated marketplace.

