

1 A bill to be entitled
2 An act relating to locksmith services; creating part XII
3 of ch. 559, F.S.; providing a short title; providing
4 findings and purpose; preempting, by a time certain,
5 regulation of locksmith services and those performing such
6 services to the state; providing scope and application;
7 providing exemptions; providing definitions; providing
8 rulemaking authority for the Department of Agriculture and
9 Consumer Services; requiring licensure of locksmith
10 services businesses; delineating requirements for
11 licensing; authorizing licensure by endorsement under
12 certain circumstances; providing license renewal
13 requirements and process; requiring a locksmith services
14 business employer to meet certain requirements in order to
15 employ persons as locksmiths or automotive-only
16 locksmiths; requiring certain information to be in
17 specified employee records; requiring a locksmith services
18 business to have liability insurance; requiring a
19 locksmith services business to issue a photo
20 identification card to each employee performing locksmith
21 services; requiring display of photo identification;
22 requiring a locksmith services business to display its
23 license and to display the license number and other
24 information in all advertising; requiring maintenance of
25 certain records by a locksmith services business;
26 specifying acceptable forms of payment for work performed;
27 authorizing review of records by law enforcement and the
28 department; prohibiting a locksmith services business to

29 require a person to waive certain rights as a precondition
 30 for service; requiring the Department of Law Enforcement
 31 to provide certain records to the department upon request;
 32 delineating prohibited acts; providing administrative
 33 remedies and penalties, civil penalties and remedies, and
 34 criminal penalties; providing that a violation of this
 35 part constitutes a deceptive and unfair trade practice;
 36 providing for deposit of penalty proceeds in the General
 37 Inspection Trust Fund; creating the Florida Locksmith
 38 Services Advisory Council within the Department of
 39 Agriculture and Consumer Services; providing membership
 40 and terms; providing operating procedures and powers and
 41 duties; requiring the department to provide administrative
 42 and staff support; providing an effective date.

43

44 Be It Enacted by the Legislature of the State of Florida:

45

46 Section 1. Part XII of chapter 559, Florida Statutes,
 47 consisting of sections 559.941, 559.942, 559.943, 559.944,
 48 559.945, 559.946, 559.947, 559.948, 559.949, 559.95, 559.951,
 49 559.952, 559.953, 559.954, 559.955, 559.956, 559.957, 559.958,
 50 559.959, 559.96, 559.961, and 559.962, Florida Statutes, is
 51 created to read:

52

PART XII

53

LOCKSMITH SERVICES

54

559.941 Short title.--This part may be cited as the

55

"Florida Locksmith Services Act."

56

559.942 Findings and purpose.--

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57 (1) The Legislature finds that:

58 (a) Locksmiths and automotive-only locksmiths operate in
59 the public trust to service, secure, and protect persons and
60 property.

61 (b) Locksmiths and automotive-only locksmiths must be
62 trained in regulations and laws applicable to their profession,
63 such as the Americans with Disabilities Act, building codes, and
64 fire and life safety codes, as well as trained in the proper
65 installation and maintenance of security devices and in the
66 ever-evolving knowledge of motor vehicle locks, keys, and built-
67 in security systems.

68 (c) The current laws and rules of this state do not
69 protect its citizens from the unscrupulous use of the tools and
70 knowledge of the locksmith profession by untrained persons or by
71 persons who have criminal intent or have been convicted of
72 certain crimes.

73 (d) As trained and tested experts in physical, motor
74 vehicle, and electronic security, locksmiths and automotive-only
75 locksmiths make positive contributions to statewide homeland
76 security by protecting and providing services for homes,
77 businesses, hospitals, schools, government buildings, and motor
78 vehicles of first responders or emergency responders.

79 (e) The licensing and regulation of persons performing
80 locksmith services in this state is necessary to protect the
81 safety and security of the public.

82 (2) The purpose of this part is to protect the public from
83 the misuse of locksmithing knowledge, supplies, manuals, or
84 equipment which results in the violation of public safety and

85 security, through the licensing of locksmith services
 86 businesses.

87 559.943 Preemption.--Effective July 1, 2010, this part
 88 preempts any local act, law, ordinance, or regulation of a
 89 county or municipality which pertains to locksmith services and
 90 those who perform locksmith services.

91 559.944 Scope and application; exemptions.--This part
 92 shall apply to all locksmith services businesses and all those
 93 providing locksmith services in the state but does not apply to
 94 the following:

95 (1) A member of a police department, fire department, or
 96 other government agency, in his or her official line of duty,
 97 providing emergency opening services.

98 (2) A sales representative providing a bona fide sales
 99 demonstration of products to locksmiths.

100 (3) An in-store employee of a hardware, do-it-yourself
 101 home products sales store, or other retail store rekeying locks
 102 just purchased, or about to be purchased, in the store of the
 103 employee.

104 (4) A licensed low voltage contractor installing or
 105 servicing electromechanical, electronic, or electromagnetic
 106 devices and peripheral hardware.

107 (5) Any person acquiring or using any key-duplication
 108 machine or key blanks to duplicate keys.

109 (6) A property owner or an agent of the property owner
 110 maintaining a file of key cutting data for a master-key system
 111 on the property.

112 (7) An employee of a bank, savings and loan, credit union,
 113 or trust company providing safe, safe-deposit box, or vault
 114 opening or servicing services at his or her place of employment.

115 (8) An automotive service dealer, a lock manufacturer, or
 116 an agent of a lock manufacturer servicing, installing,
 117 repairing, or rebuilding automotive locks or originating and
 118 duplicating automotive keys.

119 (9) Building trades personnel installing locks or locking
 120 devices on a project that requires a building permit.

121 (10) A wrecker operator as defined in s. 1.01(15)
 122 possessing and using car opening tools necessary to unlock
 123 vehicles to facilitate towing.

124 (11) A purchaser of locksmith services or other consumer
 125 who possesses equipment, manuals, or instructions intended and
 126 necessary for that person to maintain and operate specific
 127 locking, opening, or security systems installed into real or
 128 personal property owned, leased or rented, or occupied by the
 129 purchaser or consumer.

130 559.945 Definitions.--As used in this part:

131 (1) "Advertise" means to advise, announce, give notice of,
 132 publish, or call attention to by use of oral, written, or
 133 graphic statement made in any media form, including, without
 134 limitation, a newspaper or other publication, directory listing,
 135 telephone book listing, or on radio or television, any
 136 electronic medium, or contained in any notice, handbill, sign,
 137 including signage on vehicle, flyer, catalog or letter, or
 138 printed on or contained in any tag or label attached to or
 139 accompanying any good.

140 (2) "Automotive-only locksmith" means a natural person, at
141 least 18 years of age, who performs locksmith services, as
142 defined in paragraphs (20)(e)-(g), for the public for
143 compensation while in the employ of a locksmith services
144 business.

145 (3) "Bump key" means any fabricated, specially shaped, or
146 modified key intended to be used to unlock a lock by any means
147 other than the specific method designed to open the lock.

148 (4) "Car opening tool" means any metal, cloth, nylon,
149 rubber, or plastic tool or device designed to enter, bypass, or
150 otherwise overcome the locking systems or locking mechanisms of
151 a motor vehicle by any means other than the specific method
152 designed to open the lock.

153 (5) "Change key" means a key planned and cut to operate a
154 specific group or series of locks which all have the same
155 combination of tumblers, pins, or wafers.

156 (6) "Codebook" means a compilation, in any form, of key
157 codes.

158 (7) "Code grabbing device" means any device that can
159 receive, record, or receive and record the code signal sent by
160 the transmitter of a motor vehicle's security, alarm, or
161 immobilizer system and playback the signal to disarm, bypass, or
162 neutralize the system.

163 (8) "Compensation" means money, fee, emolument, quid pro
164 quo, barter, remuneration, pay, reward, indemnification, or
165 satisfaction.

166 (9) "Consumer" or "customer" means the person who
167 purchases or receives locksmith services.

168 (10) "Department" means the Department of Agriculture and
 169 Consumer Services.

170 (11) "Emergency" means a life-threatening situation
 171 involving a person, livestock, or any animal generally regarded
 172 as a pet.

173 (12) "Key-duplication machine" means any device capable of
 174 copying or reproducing keys.

175 (13) "License" means a document issued by the department
 176 and granted to a locksmith services business according to the
 177 requirements of this part.

178 (14) "Licensee" means a locksmith services business issued
 179 a license under this part.

180 (15) "Licensing" means the granting of a license by the
 181 department pursuant to the requirements of chapter 120 and this
 182 part.

183 (16) "Lock" means any mechanical, electromechanical,
 184 electronic, or electromagnetic device or similar devices,
 185 including any peripheral hardware such as, but not limited to,
 186 closed circuit television systems, wireless or infrared
 187 transmitters, card readers, keypads, or biometric scanners that
 188 are designed to control access to and egress from something or
 189 are designed to control the use of something.

190 (17) "Lock pick" means any manual, electric, or electronic
 191 tool or device used to bypass, override, or neutralize a lock by
 192 any means other than the specific method designed to open the
 193 lock.

194 (18) "Locksmith" means a natural person, at least 18 years
 195 of age, who may perform all locksmith services, as defined in

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196 subsection (20), for the public for compensation while in the
197 employ of a locksmith services business. "Locksmith" does not
198 mean a person whose activities are limited to making duplicate
199 keys.

200 (19) "Locksmith services business" means any person, who,
201 for compensation, provides or attempts to provide locksmith
202 services to persons located in this state or who maintains a
203 place of business in this state.

204 (20) "Locksmithing" or "locksmith services" means:

205 (a) Selling, installing, servicing, repairing, repinning,
206 recombinating, and adjusting locks, safes, vaults, or safe-
207 deposit boxes;

208 (b) Originating, duplicating, and copying keys;

209 (c) Opening, bypassing, and neutralizing locks, safes,
210 vaults, or safe-deposit boxes;

211 (d) Creating, documenting, selling, installing, managing,
212 and servicing master-key systems;

213 (e) Unlocking, bypassing, or neutralizing locks of motor
214 vehicles by means other than intended by the manufacturer;

215 (f) Originating of keys for motor vehicles that includes,
216 if necessary, the programming, reprogramming, or bypassing of
217 any security, transponder, or immobilizer systems or subsequent
218 technology built in by the manufacturer; and

219 (g) Keying, rekeying, or recombining of motor vehicle
220 locks.

221 (21) "Locksmithing tool" means any tool that is designed,
222 or intended by the user to be used, to open a mechanical,
223 electronic, magnetic, or electrical locking device by any means

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224 other than that intended by the manufacturer for such a device
225 in normal operation.

226 (22) "Manipulation key" means any key other than a change
227 or master key that can be variably positioned or manipulated in
228 a keyway to bypass, override, or neutralize a lock by any means
229 other than the specific method designed to open the lock. For
230 the purposes of this part, the term "manipulation key" shall
231 also apply to wiggle and bump keys.

232 (23) "Master key" means a key planned or cut to operate
233 all locks in a series or group of locks, with each lock in the
234 series or group having its own unique key. For the purposes of
235 this part, sub-master, grand master, great grand master,
236 emergency override, and maid's keys shall be considered the same
237 as a master key.

238 (24) "Master-key system" means a system of locks in which
239 a lock is keyed so that it can be operated by its own individual
240 key and can also be operated by a key that can operate locks in
241 the system that are also keyed to their own individual keys.

242 (25) "Motor vehicle" means a "motor vehicle" as defined in
243 s. 559.903(5).

244 (26) "Organization" means any entity other than a natural
245 person.

246 (27) "Person" means a "person" as defined in s. 1.01(3).

247 (28) "Photo identification card" means a document supplied
248 by the locksmith services business licensee with a photograph of
249 the employee authorized to perform locksmith services as a
250 locksmith or as an automotive-only locksmith, the format of
251 which is approved by the department.

252 (29) "Place of business" means a physical place where the
 253 business of locksmith services is conducted, including any
 254 vehicle constituting a mobile locksmith services business from
 255 which the business of locksmith services is conducted.

256 (30) "Safe-opening tool" means any tool designed, or
 257 intended by the user to be used, to open a safe, safe-deposit
 258 box, or similar object by means other than that which is
 259 intended by the manufacturer of the safe, vault, safe-deposit
 260 box, or similar object for normal opening.

261 (31) "Tryout key" means a manipulation key that may or may
 262 not be one of a set of similar keys used for a specific series,
 263 keyway, or brand of lock to open, bypass, override, or
 264 neutralize a lock by means other than intended by the
 265 manufacturer.

266 559.946 Rulemaking authority.--

267 (1) The department has the authority to adopt rules
 268 pursuant to ss. 120.536(1) and 120.54 to implement provisions of
 269 this part.

270 (2) The department shall adopt rules relating, but not
 271 limited, to the following:

272 (a) Requirements for licensing locksmith services
 273 businesses.

274 (b) Requirements and process for background checks and
 275 fingerprint checks for persons governed by this part.

276 (c) Forms required to implement this part, including
 277 license applications, license renewals, fingerprint card
 278 submissions, background checks, and photo identification cards.

279 (d) Establishment of application, licensing, renewal, and
 280 other reasonable and necessary fees, based upon the department's
 281 estimate of the costs to the department in administering this
 282 part.

283 (e) Creation and periodic update of a background check fee
 284 schedule to incorporate fee changes by the Federal Bureau of
 285 Investigation, the Department of Law Enforcement, and other
 286 entities involved in such background checks.

287 (f) Methods to obtain and renew photographs for photo
 288 identification.

289 (g) Use and display of licenses and license numbers.
 290 559.947 Locksmith services business licensing;
 291 application.--

292 (1) Each locksmith services business providing or
 293 attempting to provide locksmith services must have a valid
 294 license issued by the department prior to doing business in this
 295 state. The application for a license must be on a form provided
 296 by the department and must include at least the following
 297 information:

298 (a) The full legal name of the applicant.

299 (b) The name or names under which the applicant is doing
 300 business. If the applicant is doing business under one or more
 301 fictitious names, the date or dates on which the applicant
 302 registered each fictitious name with the Department of State.

303 (c) The physical address at which the applicant performs
 304 locksmith services or, in the case of a mobile locksmith
 305 services business, the home address of the applicant, if
 306 different from the mailing address.

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307 (d) The mailing address of the applicant.

308 (e) The full name, address, and telephone number for each
309 of the following:

310 1. Each locksmith or automotive-only locksmith employed by
311 the applicant.

312 2. If the applicant is not a corporation or partnership,
313 each owner of the applicant.

314 3. If the applicant is a partnership, each general
315 partner.

316 4. If the applicant is a limited liability corporation,
317 each managing member.

318 5. If the applicant is a corporation, each officer and
319 director and specifying each official position with and
320 corporate office held by that person.

321 6. The applicant's Florida agent for service of process.

322 (f) If the applicant is not a natural person, a statement
323 providing the following:

324 1. The type of legal entity, such as a corporation,
325 partnership, or other limited liability corporation.

326 2. The jurisdiction and date of legal creation of the
327 entity.

328 3. The applicant's federal employer identification number.

329 4. If a foreign business entity, the date it registered
330 with the Department of State for authority to do business in the
331 state.

332 (g) The names of all other corporations, business
333 entities, and trade names through which each owner of the
334 locksmith services business operated, was known, or did business

335 as a locksmith services business within the 5 years immediately
336 preceding the date of the application.

337 (h) Proof of insurance as required under s. 559.951.

338 (i) The number of locksmiths and automotive-only
339 locksmiths which the applicant intends to employ or which are
340 currently employed.

341 (2) The application must be accompanied by the following:

342 (a) For each individual identified in paragraph (1)(e), a
343 set of fingerprints on a form and under procedures specified by
344 the department, along with a completed affidavit of the
345 individual's criminal record, if any, and a nonrefundable
346 payment in an amount equal to the actual costs incurred by the
347 department for the fingerprint analysis and criminal background
348 check of the applicant. The department shall submit the
349 fingerprints to the Department of Law Enforcement for state
350 processing, and the Department of Law Enforcement shall forward
351 the fingerprints to the Federal Bureau of Investigation for a
352 national criminal history check.

353 (b) A nonrefundable payment for the biennial license fee,
354 calculated as follows:

355 1. If the applicant employs one to five locksmiths,
356 automotive-only locksmiths, or a combination of the two, at the
357 specified location, an amount not to exceed: \$800.

358 2. If the applicant employs six or more locksmiths,
359 automotive-only locksmiths, or a combination of the two, at the
360 specified location, an amount not to exceed: \$1,600.

361 (3) Periodically, including at the time of license
362 renewal, the department shall consult with state and federal law

363 enforcement officials to determine whether any of the
364 individuals disclosed by a licensee have any change in their
365 criminal records.

366 (4) Each licensee must file with the department the
367 information and fingerprints required by this section for any
368 new locksmith or automotive-only locksmith employee or other
369 individual subject to the disclosure requirements of paragraph
370 (1)(e) within 10 days after the date the individual assumes such
371 duties with the licensee.

372 (5) An individual may not be a locksmith, an automotive-
373 only locksmith, or an independent contractor, owner, partner,
374 officer, director, or managing member of a licensee if the
375 individual:

376 (a) Was convicted or found guilty of, or pled guilty or
377 nolo contendere to, or was incarcerated as a result of having
378 previously been convicted or found guilty of, or pled guilty or
379 nolo contendere to, regardless of adjudication, a felony within
380 the last 10 years; or

381 (b) Was convicted or found guilty of, or pled guilty or
382 nolo contendere to, or was incarcerated as a result of having
383 previously been convicted or found guilty of, or pled guilty or
384 nolo contendere to, regardless of adjudication, a crime
385 involving trespass, burglary, theft, larceny, dealing in stolen
386 property, receiving stolen property, embezzlement, obtaining
387 property by false pretenses, possession of altered property, or
388 any other fraudulent or dishonest dealing within the last 10
389 years.

390 (6) The department shall issue to each applicant a license
391 certificate in the form and size as prescribed by the department
392 in accordance with s. 120.60. The certificate must show at least
393 the name, address, and license number of the locksmith services
394 business. In the case of a mobile locksmith services business,
395 the certificate must show the home address of the owner, if
396 different from the business address.

397 (7) Any person applying for or renewing a local business
398 tax receipt to engage in business as a locksmith services
399 business must exhibit a valid license certificate from the
400 department before the local business tax receipt may be issued
401 or renewed.

402 (8) In the case of a mobile locksmith services business,
403 the established place of business shall be considered the home
404 address of the owner, if different from the business address.

405 (9) A separate license is required for each locksmith
406 services business.

407 (10) A licensee who seeks to move a locksmith services
408 business to another location must give 30 days' prior written
409 notice to the department by certified or registered mail, return
410 receipt requested, and the department must then amend the
411 license to indicate the new location and issue an amended
412 license certificate.

413 (11) The license granted under this part may not be
414 transferred or assigned and is valid only for the licensee and
415 the location for which it is issued.

416 (12) The department may deny, revoke, or refuse to renew
417 the license of a locksmith services business based upon a

418 determination that the locksmith services business or any of its
419 directors, officers, owners, general partners, locksmiths, or
420 automotive-only locksmiths:

421 (a) Failed to meet the requirements for licensure as
422 provided in this part;

423 (b) Failed to satisfy a civil fine, administrative fine,
424 or other penalty arising out of any administrative or
425 enforcement action brought by any governmental agency;

426 (c) Received any civil, criminal, or administrative
427 adjudication in any jurisdiction;

428 (d) Have pending against them any criminal,
429 administrative, or enforcement proceedings in any jurisdiction;
430 or

431 (e) Have had a judgment entered against them in any action
432 brought pursuant to part II of chapter 501, the Florida
433 Deceptive and Unfair Trade Practices Act.

434 559.948 Licensing by endorsement.--

435 (1) A nonresident of this state may be licensed as a
436 locksmith services business by meeting one of the following
437 requirements:

438 (a) Conforming to the provisions of this part and the
439 rules of the department pertaining to this part; or

440 (b) Holding a valid locksmith services business license,
441 or the equivalent thereof, in another state with which
442 reciprocity has been established by the department.

443 (2) The department may establish reciprocity criteria by
444 rule pursuant to the following guidelines:

445 (a) The licensure program of the other state must grant
 446 Florida-licensed locksmith services businesses reciprocity under
 447 the same terms and conditions required by this part.

448 (b) Licensing criteria in the other state must require the
 449 same information as required under s. 559.947.

450 (c) The other state must license all locksmith services
 451 businesses which are resident in that state and seek to perform
 452 locksmith services in this state.

453 559.949 License renewal.--

454 (1) Each license must be renewed biennially on or before
 455 the expiration date of the current license.

456 (2) To apply for renewal of a license, the licensee shall
 457 file all of the following with the department:

458 (a) A renewal application on the form required by the
 459 department, providing the information and disclosures required
 460 by s. 559.947.

461 (b) The annual license fees calculated as required by s.
 462 559.947.

463 (c) Proof of insurance as required in s. 559.951.

464 (d) Verification of no changes in the criminal history of
 465 each individual disclosed during the previous license period
 466 pursuant to s. 559.947.

467 (e) The complete information, fingerprints, and fees
 468 required by s. 559.947(2) for all individuals disclosed pursuant
 469 to s. 559.947(1)(e) who were not previously disclosed in the
 470 prior license period.

471 559.95 Locksmith services business employer
 472 requirements.--

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473 (1) A locksmith services business may not employ any
474 person who performs any locksmith services as defined under this
475 part unless:

476 (a) The locksmith services business issues each locksmith
477 and automotive-only locksmith an identification card pursuant to
478 s. 559.952; and

479 (b)1. If employed as an automotive-only locksmith, the
480 employee completes a course of training in industry ethics; or

481 2. If employed as a locksmith, the employee completes
482 courses of training in industry ethics, the Americans with
483 Disabilities Act, the Florida Fire Prevention Code, and the Life
484 Safety Code.

485 (2) Each locksmith services business shall maintain a
486 record of each locksmith and automotive-only locksmith employee
487 that contains the following information:

488 (a) Two photographs of the employee, which shall be taken
489 within 10 days after the date the employee begins employment.
490 One copy shall be used for the employee's photo identification
491 card. The second shall be retained in the employee's personnel
492 record. These photographs shall be replaced with a current
493 photograph every 3 calendar years.

494 (b) A background check on each employee, which shall be
495 completed a minimum of once every 3 calendar years and a copy of
496 which shall be kept in the employee's personnel record for
497 inspection and another copy of which shall be submitted to the
498 department upon request.

499 (c) Each certificate showing completion of the training
500 required under subparagraph (1)(b)1. for an automotive-only

501 locksmith employee or under subparagraph (1)(b)2. for a
 502 locksmith employee.

503 559.951 Liability insurance.--Each locksmith services
 504 business must maintain current and valid liability insurance
 505 coverage of at least \$100,000 per incident for loss or damages
 506 resulting from the negligence of the locksmith services business
 507 or its locksmith or automotive-only locksmith employees.

508 (1) The locksmith services business must provide the
 509 department with evidence of liability insurance coverage before
 510 the business is licensed by the department.

511 (2) The failure of a locksmith services business to
 512 maintain insurance coverage in accordance with this section
 513 constitutes an immediate threat to the public health, safety,
 514 and welfare. If a locksmith services business fails to maintain
 515 insurance coverage, the department may immediately suspend the
 516 business' license or eligibility for licensure, and the business
 517 must immediately cease operating as a locksmith services
 518 business. In addition, and notwithstanding the availability of
 519 any administrative relief pursuant to chapter 120, the
 520 department may seek from the appropriate circuit court an
 521 immediate injunction prohibiting the locksmith services business
 522 from operating until the business complies with this section and
 523 imposing a civil penalty not to exceed \$10,000 and court costs.

524 (3) The required insurance coverage must be issued by an
 525 insurance company or carrier licensed to transact business in
 526 this state under the Florida Insurance Code as designated in s.
 527 624.01. The department shall require a locksmith services
 528 business to present a certificate of insurance of the required

529 coverage before issuance or renewal of a license. The department
530 shall be named as a certificateholder in the certificate and
531 must be notified at least 30 days before any changes in
532 insurance coverage.

533 559.952 Identification cards; display of license and
534 license number.--

535 (1) Each locksmith services business shall issue a photo
536 identification card to each employee performing locksmith
537 services as a locksmith or as an automotive-only locksmith.

538 (a) Every photo identification card shall contain the name
539 of the individual employee, the name of the locksmith services
540 business, and the license number of the locksmith services
541 business.

542 (b) An identification card for a person employed as a
543 locksmith shall include the word "Locksmith."

544 (c) An identification card for a person employed as an
545 automotive-only locksmith shall include the words "Automotive-
546 Only Locksmith."

547 (2) All locksmith employees and automotive-only locksmith
548 employees of a licensed locksmith services business shall
549 display a photo identification card on their person at all times
550 when performing locksmith services.

551 (3) A locksmith services business shall display a copy of
552 the license issued by the department at the place of business
553 and in a manner easily readable by the general public. A
554 locksmith services business providing mobile only service shall
555 retain a copy of the license issued by the department in the
556 service vehicle for presentation to any person of the general

557 public, any law enforcement officer, or any state or local
558 official immediately upon request.

559 (4) Any advertisement or advertising, service vehicles,
560 and forms must include the license number of the locksmith
561 services business and the name of the business listed with the
562 department.

563 559.953 Acceptable forms of payment; locksmith services
564 business records.--

565 (1) A locksmith services business shall accept a minimum
566 of two of the three following forms of payment:

567 (a) Cash, cashier's check, money order, or traveler's
568 check;

569 (b) Valid personal check, showing upon its face the name
570 and address of the person for whom the locksmith services were
571 performed or an authorized representative; or

572 (c) Valid credit card, which shall include, but not be
573 limited to, Visa or MasterCard.

574 (2) A locksmith services business must clearly and
575 conspicuously disclose to the person requesting locksmith
576 services in the work order, invoice, or sales receipt the forms
577 of payment the locksmith services business will accept,
578 including the forms of payment described in subsection (1).

579 (3) A copy of each work order, invoice, or sales receipt
580 shall be retained for 2 years and shall include the name of the
581 person performing the service. A copy of each work order,
582 invoice, or sales receipt shall be readily available for
583 inspection by any law enforcement officer or by the department
584 anytime during normal business hours.

585 559.954 Requirement of waiver of rights prohibited.--It
 586 shall be unlawful for any locksmith services business to require
 587 that any person waive his or her rights provided in this part as
 588 a precondition to the performance of locksmith services by the
 589 business.

590 559.955 Records of the Department of Law Enforcement.--The
 591 Department of Law Enforcement, on request, must supply to the
 592 department any arrest and conviction records in its possession
 593 of an individual applying for or holding a license under this
 594 part.

595 559.956 Violations.--It is a violation of this part to:
 596 (1) Offer to provide or provide locksmith services without
 597 first being issued a valid license by the department.

598 (2) Misrepresent that locksmith services have been
 599 completed.

600 (3) Advertise or represent oneself as a locksmith services
 601 business without first being issued a valid license by the
 602 department.

603 (4) Obtain, own, or possess locksmithing tools; bump,
 604 change, master, manipulation, or tryout keys; car opening tools;
 605 code grabbing devices; lock picks; safe-opening tools; or
 606 manuals or codebooks in any format, either in person, through an
 607 intermediary, through mail order, or by any other remote-
 608 procurement method, without first being issued a valid license
 609 by the department.

610 (5) Obtain, own, or possess car opening tools, either in
 611 person, through an intermediary, or through mail order or by any

612 other remote procurement method, without first being issued a
613 valid license by the department.

614 (6) Possess locksmithing tools, implements, or outfits
615 unless the person is a dealer, a locksmith services business
616 licensed under this part or a locksmith or automotive-only
617 locksmith employed by such a business, an automobile
618 repossessor, a motor vehicle recovery or towing service
619 employee, or a locking-device manufacturer, or such
620 manufacturer's agent, who has a reasonable need to possess
621 locksmithing tools, implements, or outfits for demonstration,
622 testing, and research purposes. Possession by any other person
623 shall be prima facie evidence of an intent to commit burglary,
624 robbery, or larceny.

625 (7) Fraudulently misuse any customer's credit card.

626 (8) Fail or refuse, after notice, to provide any law
627 enforcement officer or the department with any document or
628 record or disclose any information required to be produced or
629 disclosed.

630 (9) File with the department the fingerprints of a person
631 other than the specific individual for whom fingerprints must be
632 submitted pursuant to s. 559.947(2)(a) or s. 559.949(2)(e) or
633 fail to submit replacement fingerprints for a locksmith or
634 automotive-only locksmith employee whose original fingerprint
635 submissions are returned to the department as unclassifiable by
636 the screening agency.

637 (10) Use a local mailing address, registration facility,
638 drop box, or answering service in the promotion, advertisement,
639 solicitation, or sale of locksmith services unless the licensed

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640 business address of the locksmith services business is clearly
641 disclosed during any telephone solicitation and is prominently
642 and conspicuously disclosed in all advertisements and on the
643 work orders, invoices, or sales receipts.

644 (11) Operate as a locksmith services business in a
645 location other than that stated on the license certificate.

646 (12) Make or authorize in any manner or by any means
647 whatever any written or oral statement which is untrue,
648 deceptive, or misleading, and which is known, or which by the
649 exercise of reasonable care should be known, to be untrue,
650 deceptive, or misleading.

651 (13) Make a false statement in response to any request or
652 investigation by the department, the Department of Legal
653 Affairs, any law enforcement officer, or the state attorney.

654 (14) Make a material false statement in any application,
655 document, or record required to be submitted or retained under
656 this part.

657 (15) Commit any other act of fraud, misrepresentation, or
658 failure to disclose a material fact.

659 (16) Disclose or permit the disclosure of any customer
660 information without the customer's written approval except as
661 authorized by this part.

662 (17) Violate any provisions of this part or of the rules
663 adopted or orders issued under this part.

664 559.957 Administrative remedies; penalties.--

665 (1) The department shall process consumer complaints as
666 provided in ss. 570.07 and 570.544.

667 (2) Any locksmith services business shall allow department
668 personnel to enter its place or places of business to ascertain
669 whether the license certificate is current. If department
670 personnel are refused entry or access to the premises, the
671 department may seek injunctive relief in circuit court in order
672 to obtain compliance with this subsection.

673 (3) The department may enter an order doing one or more of
674 the following if the department finds that a locksmith services
675 business has violated or is operating in violation of this part
676 or the rules adopted or orders issued under this part:

677 (a) Issuing a notice of noncompliance under s. 120.695.

678 (b) Imposing an administrative fine not to exceed \$10,000
679 for each act or omission.

680 (c) Directing that the locksmith services business cease
681 and desist specified activities.

682 (d) Refusing to issue a license or revoking or suspending
683 a license.

684 (e) Placing the licensee on probation for a period of
685 time, subject to the conditions specified by the department.

686 (4) The administrative proceedings which could result in
687 the entry of an order imposing any of the penalties specified in
688 subsection (3) are governed by chapter 120.

689 (5) In a final order imposing an administrative fine or
690 suspending, revoking, or denying initial issuance or renewal of
691 a license, the department may assess the sanctioned party the
692 cost of conducting such administrative proceedings when the
693 department has final authority to grant a license, unless the
694 department determines that the offense was inadvertent or done

695 in a good faith belief that the act did not violate a state law
 696 or rule. The cost shall be limited to the reasonable hourly rate
 697 for the hearing officer and the actual cost of recording or
 698 transcribing the proceedings.

699 (6) The department shall post a prominent "Closed by Order
 700 of the Department" sign on any locksmith services business that
 701 has had its license suspended or revoked. The department shall
 702 also post a sign on any locksmith services business that has
 703 been judicially or administratively determined to be operating
 704 without a license. It is a misdemeanor of the second degree,
 705 punishable as provided in s. 775.082 or s. 775.083, for any
 706 person to deface such sign or remove such sign without written
 707 authorization by the department or for any locksmith services
 708 business to open for operation without a license or to open for
 709 operation as a locksmith services business while its license is
 710 suspended or revoked. The department may impose administrative
 711 sanctions provided for in this section for violations of this
 712 subsection.

713 559.958 Civil penalties; remedies.--

714 (1) Any customer injured by a violation of this part may
 715 bring an action in the appropriate court for relief. The
 716 prevailing party in that action may be entitled to damages plus
 717 court costs and reasonable attorney's fees. The customer may
 718 also bring an action for injunctive relief in the circuit court.

719 (2) The department may institute a civil action in a court
 720 of competent jurisdiction to recover any penalties or damages
 721 authorized in this part and for injunctive relief to enforce
 722 compliance with this part.

723 (3) The department may seek a civil penalty of up to
724 \$10,000 for each violation of this part.

725 (4) The department may seek restitution for and on behalf
726 of any consumer injured by a violation of this part.

727 (5) Any agreement or representation that purports to
728 waive, limit, restrict, or avoid any of the duties, obligations,
729 or prescriptions of the locksmith services business, as provided
730 in this part, is void.

731 (6) The remedies provided in this part are in addition to
732 any other remedies available for the same conduct.

733 559.959 Criminal penalties.--

734 (1) Any person who violates any provision of s.
735 559.956(1)-(4) commits a misdemeanor of the first degree,
736 punishable as provided in s. 775.082 or s. 775.083.

737 (2) Any person, other than a licensed locksmith services
738 business or the identified employees of a licensed locksmith
739 services business performing locksmith services, who has in his
740 or her possession any locksmithing tools, implements, or outfits
741 with intent to commit burglary, robbery, or larceny, upon
742 conviction thereof, is guilty of a felony of the third degree,
743 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

744 (3) Unless otherwise specified, any person or organization
745 that engages in any unlawful act enumerated in s. 559.956
746 commits a misdemeanor of the first degree, punishable as
747 provided in s. 775.082 or s. 775.083. The third or any
748 subsequent conviction for violating s. 559.956 during a 36-month
749 period constitutes a felony of the third degree, punishable as
750 provided in s. 775.082, s. 775.083, or s. 775.084.

751 559.96 Deceptive and unfair trade practice.--Any violation
752 of this part constitutes a deceptive and unfair trade practice
753 under part II of chapter 501, the Florida Deceptive and Unfair
754 Trade Practices Act, and administrative rules adopted in
755 accordance with that act.

756 559.961 General Inspection Trust Fund; payments.--Any
757 moneys recovered by the department as a penalty under this part
758 shall be deposited in the General Inspection Trust Fund.

759 559.962 Florida Locksmith Services Advisory Council.--The
760 Florida Locksmith Services Advisory Council is created to advise
761 and assist the department in carrying out this part.

762 (1) The membership of the council may not exceed nine
763 members appointed by the Commissioner of Agriculture.

764 (a) Seven industry members of the council must be chosen
765 from individuals already engaged in the locksmith services
766 business in locksmith services businesses that are licensed
767 under this part, as follows:

768 1. Five members of the council must be individuals
769 employed by separate, licensed locksmith services businesses and
770 who do not provide automotive-only locksmith services.

771 2. Two members of the council must be individuals employed
772 by separate, licensed locksmith services businesses and who
773 provide automotive-only locksmith services.

774 (b) One member of the council must be an electrical
775 contractor certified under chapter 489.

776 (c) One member of the council must be a consumer who is
777 not connected with the locksmith services business.

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779 Each council member, except the consumer member, must have at
780 least 3 years' experience in his or her profession and be
781 currently engaged in that profession. Each council member must
782 be a resident of the state. Council members shall be from
783 different geographic regions of the state.

784 (2) Council members shall be appointed for 4-year terms. A
785 member whose term has expired shall continue to serve until such
786 time as a replacement is appointed. Any vacancy occurring prior
787 to expiration of a term shall be filled by the commissioner for
788 the remainder of the term.

789 (3) (a) The council shall annually elect from its
790 membership a chair and a vice chair.

791 (b) The council shall meet at the call of its chair, at
792 the request of a majority of its membership, or at the request
793 of the department.

794 (c) In conducting its meetings, the council shall use
795 accepted rules of procedure. The department shall keep a
796 complete record of each meeting, which must show the names of
797 members present and the actions taken. These records and other
798 documents about matters within the jurisdiction of the council
799 must be kept on file with the department.

800 (4) The members of the council shall receive no
801 compensation for their services, except that they may receive
802 per diem and travel expenses as provided in s. 112.061.

803 (5) The department shall be responsible for providing
804 administrative and staff support services relating to the
805 functions of the council.

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806 (6) The council may review the rules relating to this part
807 which are adopted by the department and may advise the
808 department on matters relating to advancements in industry
809 standards and practices and other issues that require technical
810 expertise and consultation or that promote better consumer
811 protection in the locksmith services industry.

812 Section 2. This act shall take effect October 1, 2009.