

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; providing definitions; providing
5 exemptions from the application of the part; requiring the
6 licensure of locksmith services businesses and locksmith
7 referral services by the Department of Agriculture and
8 Consumer Services; specifying licensure and application
9 requirements; requiring license fees; authorizing the
10 waiver or reduction of fees under certain circumstances;
11 providing for expiration of licenses; requiring
12 fingerprinting and background screening for criminal
13 records checks of the owner and certain other persons
14 affiliated with a locksmith services business; specifying
15 background screening requirements; disqualifying certain
16 persons from performing locksmith services based upon
17 background screening; requiring the Department of Law
18 Enforcement to retain the fingerprints and search arrest
19 records against the fingerprints; requiring fees for
20 background screening; requiring the Department of Law
21 Enforcement to provide certain records to the Department
22 of Agriculture and Consumer Services upon request;
23 authorizing licensure by endorsement under certain
24 circumstances; providing license renewal requirements and
25 procedures; providing for the denial, suspension,
26 revocation, or refusal to renew a license under certain
27 circumstances; requiring a locksmith services business to
28 maintain liability insurance; prohibiting the performance

29 | of locksmith services except by certain persons;
30 | authorizing locksmiths, automotive-only locksmiths, and
31 | apprentice locksmiths to perform locksmith services under
32 | certain circumstances; establishing qualifications and
33 | training requirements for locksmiths, automotive-only
34 | locksmiths, and apprentice locksmiths; requiring locksmith
35 | services businesses to keep certain records and issue
36 | photo identification cards to locksmiths, automotive-only
37 | locksmiths, and locksmith apprentices; requiring display
38 | of photo identification cards and licenses; requiring a
39 | locksmith services business to display its license,
40 | license number, and other information in all advertising;
41 | requiring a locksmith services business to accept certain
42 | methods of payment and keep certain business records;
43 | authorizing the review of records by the department;
44 | specifying certain prohibited acts relating to the
45 | operation of a locksmith services business; providing
46 | civil penalties and remedies; providing administrative
47 | remedies and penalties; providing that a violation of the
48 | act is a deceptive and unfair trade practice; providing
49 | criminal penalties; requiring the department to adopt
50 | rules; providing for the deposit and use of certain funds;
51 | preempting to the state certain regulations of locksmith
52 | services, locksmiths, and locksmith services businesses;
53 | prohibiting the issuance or renewal of local business tax
54 | receipts to locksmith services businesses except under
55 | certain circumstances; creating the Florida Locksmith
56 | Services Advisory Council within the department; providing

57 membership and terms; providing operating procedures and
 58 duties; requiring the department to provide administrative
 59 and staff support; providing an effective date.

60

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

62

63 Section 1. Part XII of chapter 559, Florida Statutes,
 64 consisting of sections 559.941, 559.942, 559.943, 559.944,
 65 559.945, 559.946, 559.947, 559.948, 559.949, 559.95, 559.951,
 66 559.952, 559.953, 559.954, 559.955, 559.956, 559.957, 559.958,
 67 559.959, 559.96, and 559.961, is created to read:

68

PART XII

69

LOCKSMITH SERVICES

70

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

71

"Florida Locksmith Services Act."

72

559.942 Findings and purpose.—The Legislature finds that:

73

(1) Locksmiths operate in the public trust to service,

74

secure, and protect persons and property.

75

(2) Locksmiths must be trained in regulations and laws

76

applicable to their profession, including, but not limited to,

77

the federal Americans with Disabilities Act, the Florida

78

Building Code, the Florida Fire Prevention Code, and the Life

79

Safety Code, and must be trained in the proper installation and

80

maintenance of security devices, motor vehicle locks, keys, and

81

built-in security systems.

82

(3) The purpose of this part is to provide for the

83

licensing and regulation of locksmith services businesses in

84

this state which are necessary to protect the public from the

85 misuse of locksmithing knowledge, supplies, manuals, and
 86 equipment that threaten public safety and security.

87 559.943 Definitions.—As used in this part, the term:

88 (1) "Advertise" means to advise, announce, give notice of,
 89 publish, or call attention to by use of oral, written, or
 90 graphic statement made in a newspaper or other publication or on
 91 radio or television; made in any other electronic medium;
 92 contained in any notice, handbill, sign, including signage on
 93 any vehicle, flyer, catalog, or letter; or printed on or
 94 contained in any tag or label attached to or accompanying any
 95 good.

96 (2) "Apprentice locksmith" means a natural person who
 97 performs locksmith services on behalf of a locksmith services
 98 business under the direct and continuous supervision of a
 99 locksmith.

100 (3) "Automotive-only locksmith" means a locksmith who
 101 performs only those locksmith services relating to motor
 102 vehicles as described in paragraphs (11)(e)-(g) on behalf of a
 103 locksmith services business.

104 (4) "Business location" means a physical location where a
 105 licensee operates a locksmith services business or, if the
 106 licensee is a mobile locksmith services business, the physical
 107 location where the licensee's records are kept.

108 (5) "Department" means the Department of Agriculture and
 109 Consumer Services.

110 (6) "Key duplication machine" means a device capable of
 111 copying or reproducing keys.

112 (7) "Licensee" means a locksmith services business

113 licensed under this part.

114 (8) "Lock" means a mechanical, electromechanical,
115 electronic, or electromagnetic device or system, including, but
116 not limited to, any peripheral hardware such as, a closed-
117 circuit television system, wireless or infrared transmitter,
118 card reader, keypad, or biometric scanner, that is designed to
119 control access to and egress from a door, gate, safe, vault,
120 safe-deposit box, motor vehicle, or other enclosure or that is
121 designed to control the use of such an enclosure.

122 (9) "Locksmith" means a natural person who performs any
123 locksmith services on behalf of a locksmith services business.
124 The term includes an automotive-only locksmith but does not
125 include a person whose activities are limited to making
126 duplicate keys.

127 (10) "Locksmith referral service" means the advertisement
128 of locksmith services in this state by a person who does not
129 perform the locksmith services but who subcontracts with, or
130 refers the customer to, another locksmith services business for
131 the performance of the locksmith services.

132 (11) "Locksmith services" means:

133 (a) Selling, installing, servicing, repairing, repinning,
134 recombinating, and adjusting locks, safes, vaults, or safe-
135 deposit boxes.

136 (b) Originating, duplicating, and copying keys.

137 (c) Opening, bypassing, and neutralizing locks, safes,
138 vaults, or safe-deposit boxes.

139 (d) Creating, documenting, selling, installing, managing,
140 and servicing master key systems.

CS/CS/HB 301

2010

141 (e) Unlocking, bypassing, or neutralizing motor vehicle
142 locks by means other than intended by the manufacturer.

143 (f) Originating keys for motor vehicles that includes, if
144 necessary, the programming, reprogramming, or bypassing of any
145 security, transponder, or immobilizer systems or subsequent
146 technology built in by the manufacturer.

147 (g) Keying, rekeying, or recombining motor vehicle
148 locks.

149
150 The term does not include contracting as defined in s. 489.505
151 for which a registration or certification is required under part
152 II of chapter 489.

153 (12) "Locksmith services business" means a person who
154 performs or offers to perform locksmith services for
155 compensation, advertises or represents himself or herself as a
156 locksmith services business, or operates a locksmith referral
157 service in this state.

158 (13) "Master key system" means a system of locks in which
159 a lock is keyed so that it can be operated by its own individual
160 key as well as by a key that operates other locks in the system
161 that are also keyed to their own individual keys.

162 (14) "Mobile locksmith services business" means a
163 locksmith services business that operates exclusively from one
164 or more vehicles and not from a specific physical location.

165 (15) "Motor vehicle" has the same meaning as in s.
166 559.903(5).

167 559.944 Application of part; exemptions.—This part does
168 not apply to:

169 (1) A law enforcement officer, firefighter or voluntary
 170 firefighter, emergency medical technician or paramedic, or other
 171 government employee or agent who, in his or her official line of
 172 duty, performs locksmith services.

173 (2) A sales representative who provides a bona fide sales
 174 demonstration of products to locksmiths.

175 (3) An in-store employee of a hardware store, do-it-
 176 yourself home products store, or other retail store who rekeys
 177 locks being purchased in the store.

178 (4) An electrical or alarm system contractor registered or
 179 certified under chapter 489 who is acting within the scope of
 180 his or her practice.

181 (5) A person who lawfully acquires and uses a key
 182 duplication machine or key blanks to duplicate keys.

183 (6) A property owner or agent of a property owner who
 184 maintains a file of key cutting data for a master key system on
 185 the property.

186 (7) An employee of a financial institution as defined in
 187 s. 655.005 who provides safe, safe-deposit box, or vault
 188 services at the financial institution.

189 (8) A motor vehicle dealer as defined in s. 320.27, a
 190 motor vehicle repair shop as defined in s. 559.903, or a lock
 191 manufacturer or agent of a lock manufacturer who services,
 192 installs, repairs, or rebuilds motor vehicle locks or originates
 193 and duplicates motor vehicle keys.

194 (9) Building trades personnel who:

195 (a) Install locks or locking devices on a construction
 196 project that requires a building permit; or

197 (b) Install locks or locking devices for home repair or
 198 improvement, if the locks are designed for installation by the
 199 customer and such home repair or improvement is part of a larger
 200 repair or replacement project.

201 (10) A wrecker operator as defined in s. 1.01(15) who
 202 possesses or uses the car-opening tools which are necessary to
 203 unlock vehicles, if the wrecker operator does not advertise
 204 himself or herself as a locksmith.

205 (11) An automobile club as defined in s. 627.8405(1) when
 206 towing a motor vehicle for a club member or assisting a club
 207 member to enter a locked motor vehicle.

208 (12) A hardware store, do-it-yourself home product store,
 209 or other retail store that sells locks and safes which are
 210 designed for use and installation by the customer without
 211 professional assistance.

212 559.945 Locksmith services business; licensure.-

213 (1) A person may not perform or offer to perform locksmith
 214 services for compensation, advertise or represent himself or
 215 herself as a locksmith services business, or operate a locksmith
 216 referral service in this state unless the person is licensed
 217 under this part. However, a locksmith or apprentice locksmith
 218 performing locksmith services on behalf of a licensee is not
 219 required to obtain a separate license. An application for
 220 licensure must be submitted to the department in the format
 221 prescribed by the department and must include, at a minimum, the
 222 following:

223 (a) The full legal name and mailing address of the
 224 applicant.

225 (b) Each name under which the applicant does business in
 226 this state and, if the applicant is doing business under a
 227 fictitious name, the date on which the applicant registered the
 228 fictitious name with the Department of State.

229 (c) The mailing address, street address, and telephone
 230 number of the applicant's principal business location and, if
 231 the applicant performs locksmith services or operates a
 232 locksmith referral service at more than one business location,
 233 the mailing address, street address, and telephone number of
 234 each additional business location; or, for an applicant
 235 operating as a mobile locksmith services business, the vehicle
 236 identification number, license plate number, and a copy of the
 237 vehicle registration.

238 (d) If the applicant is not a natural person, a statement
 239 of:

240 1. The applicant's type of business entity, such as a
 241 corporation, partnership, or other limited liability
 242 corporation.

243 2. The applicant's federal employer identification number.

244 3. Whether the applicant is a foreign or domestic business
 245 entity, the state and date of incorporation, the charter number,
 246 and the date that the applicant first registered with the
 247 Department of State to do business in the state.

248 (e) Each corporate, fictitious, or other business or trade
 249 name under which any owner of the locksmith services business
 250 operated, was known, or did business as a locksmith services
 251 business within 5 years before the date of the application.

252 (f) The full name, address, and telephone number of:

253 1. Each locksmith, automotive-only locksmith, and
254 apprentice locksmith who performs locksmith services on behalf
255 of the applicant.

256 2. Each officer and director of the corporation, their
257 official positions, and corporate offices, if the applicant is a
258 corporation.

259 3. Each general partner, if the applicant is a
260 partnership.

261 4. Each managing member, if the applicant is a limited
262 liability corporation.

263 5. The owner of the applicant, if the applicant is a
264 proprietorship.

265 6. The applicant's registered agent for service of process
266 in this state.

267 (g) The number of locksmiths that the applicant currently
268 employs or intends to employ.

269 (2) Each application must be accompanied by:

270 (a) Payment of a nonrefundable biennial license fee,
271 calculated as follows:

272 1. If the applicant employs one to five locksmiths, an
273 amount not to exceed \$800.

274 2. If the applicant employs six or more locksmiths, an
275 amount not to exceed \$1,600.

276 3. If the applicant operates a locksmith referral service
277 but does not employ any locksmiths, an amount not to exceed
278 \$800.

279
280 If, upon receipt of documentation demonstrating that an

281 applicant's financial hardship results from a tax determination,
282 collections enforcement, or other proof that the applicant's
283 liabilities exceed the assets of his or her business, the
284 department may, to the extent that the fees required by this
285 subsection would impose a significant financial hardship, waive
286 or reduce such fees for an initial or renewal application.

287 (b) Proof of liability insurance coverage as required in
288 s. 559.95.

289 (c) For each person listed in paragraph (1)(f), a set of
290 fingerprints submitted in the manner prescribed by the
291 department, an affidavit of the person's criminal history, if
292 any, and payment of any fees or costs required under s. 559.946
293 for background screening.

294 (3)(a) The department shall issue a license to each
295 applicant in the format prescribed by the department in
296 accordance with s. 120.60. The license must show at least the
297 name, the street address of each business location listed in the
298 application pursuant to paragraph (1)(c), and the license number
299 of the locksmith services business. If the applicant is a mobile
300 locksmith services business, the license must show the residence
301 address of the owner, if different than the street address of
302 the business location where the applicant's records are kept.

303 (b) A license issued under this part may not be
304 transferred or assigned and is valid only for the licensee and
305 the business locations for which it is issued.

306 (c) A locksmith services business license is valid for 2
307 years from the date of issuance. To provide for the biennial
308 renewal of licenses under s. 559.948, the department may adopt

309 rules to stagger the license expiration dates over a 2-year
310 period.

311 (4) (a) A licensee must notify the department in writing at
312 least 30 days before changing a locksmith services business
313 location. The department shall issue to the licensee an amended
314 license that shows the new business location.

315 (b) Within 10 days after a person listed in paragraph
316 (1) (f) begins his or her duties with a licensee, the licensee
317 must submit a set of the person's fingerprints in the manner
318 prescribed by the department, an affidavit of the person's
319 criminal history, if any, and payment of any fees or costs
320 required under s. 559.946 for background screening.

321 559.946 Locksmith services businesses; fingerprinting and
322 background screening; disqualification.—

323 (1) (a) Each person listed in s. 559.945(1) (f) must be
324 fingerprinted and undergo background screening for criminal
325 justice information as defined in s. 943.045. The department
326 shall submit each set of fingerprints to the Department of Law
327 Enforcement for statewide criminal records checks, and the
328 Department of Law Enforcement shall forward the fingerprints to
329 the Federal Bureau of Investigation for federal criminal records
330 checks. The cost of the fingerprint processing and criminal
331 records checks shall be borne by the locksmith services business
332 or the person required to be fingerprinted and shall be paid to
333 the department. The Department of Law Enforcement shall submit a
334 monthly invoice to the department for the fingerprint processing
335 and criminal records checks performed during the month, and the
336 department shall pay the invoice from the fees collected. The

337 results of the criminal records checks shall be returned to the
338 department, and the department shall screen the results to
339 determine whether the person is disqualified under subsection
340 (2).

341 (b) If a legible set of fingerprints, as determined by the
342 Department of Law Enforcement or the Federal Bureau of
343 Investigation, cannot be obtained after two attempts, the
344 department shall determine whether the person is disqualified
345 based upon criminal records checks under the person's name
346 conducted by the Department of Law Enforcement and the Federal
347 Bureau of Investigation.

348 (2) (a) A person required to undergo background screening
349 pursuant to this section must not have been convicted or
350 incarcerated as a result of having been convicted of a crime
351 involving sexual battery, attempted sexual battery, trespass,
352 burglary, theft, larceny, dealing in stolen property, receiving
353 stolen property, embezzlement, obtaining property by false
354 pretenses, possession of altered property, or any other
355 fraudulent or dishonest dealing within the previous 10 years.

356 (b) The department may grant a person disqualified under
357 paragraph (a) an exemption from disqualification for conviction
358 of:

359 1. Any felony committed more than 3 years before the date
360 of disqualification.

361 2. Any misdemeanor.

362 (c) In order for the department to grant an exemption, the
363 disqualified person must demonstrate clear and convincing
364 evidence of rehabilitation, including, but not limited to, the

365 circumstances surrounding the criminal incident for which an
366 exemption is sought, the time period that has elapsed since the
367 incident, the nature of the harm caused to the victim, and the
368 history of the disqualified person since the incident, or any
369 other evidence or circumstances indicating that the disqualified
370 person will not present a danger to the public if an exemption
371 is granted.

372 (3) (a) All fingerprints submitted to the Department of Law
373 Enforcement pursuant to this section must be submitted
374 electronically and shall be retained by the Department of Law
375 Enforcement in a manner provided by rule and entered in the
376 statewide automated fingerprint identification system authorized
377 by s. 943.05(2) (b). The fingerprints shall thereafter be
378 available for all purposes and uses authorized for arrest
379 fingerprints entered in the statewide automated fingerprint
380 identification system pursuant to s. 943.051.

381 (b) The Department of Law Enforcement shall search all
382 arrest fingerprints received under s. 943.051 against the
383 fingerprints retained in the statewide automated fingerprint
384 identification system under paragraph (a). Any arrest record
385 that is identified with the retained fingerprints of a person
386 subject to background screening under this section shall be
387 reported to the department. Each locksmith services business
388 must participate in the search process by notifying the
389 department of any change in a person's status as a person listed
390 s. 559.945(1) (f) if, as a result of the change, the person's
391 fingerprints are no longer required to be retained under
392 paragraph (a).

393 (c) Each licensee shall pay to the department a fee for
394 the cost of retaining the fingerprints and performing the
395 ongoing searches of arrest records under paragraph (b). The
396 Department of Law Enforcement shall submit an invoice to the
397 department for the fingerprints retained and searches performed,
398 and the department shall pay the invoice from the fees
399 collected. The Department of Law Enforcement shall adopt rules
400 establishing the amount of the fee and procedures for retaining
401 the fingerprints, performing the searches, and disseminating the
402 search results. The department shall notify the Department of
403 Law Enforcement of any change in a person's status as a person
404 listed s. 559.945(1)(f) if, as a result of the change, the
405 person's fingerprints are no longer required to be retained
406 under paragraph (a).

407 (4) Before expiration of the time limit in s. 120.60 for
408 approving an application, if the department does not receive
409 criminal justice information for any person listed in s.
410 559.945(1)(f), or receives criminal justice information that
411 includes a crime that may disqualify the person but does not
412 include a final disposition of the crime, the time limit in s.
413 120.60 for approving the application is extended until the
414 department receives the final disposition of the crime or proof
415 of restoration of civil rights. However, an applicant may only
416 operate as an apprentice locksmith until the final disposition
417 of the crime or the proof of restoration of the applicant's
418 civil rights is received by the department.

419 (5) The Department of Law Enforcement shall provide the
420 department, upon request, with any criminal justice information

421 in its possession of a person who is:

422 (a) A licensee or applicant for a license under this part;

423 or

424 (b) Employed by a licensee or applicant for a license
 425 under this part.

426 559.947 Licensure by endorsement.—

427 (1) A person may be licensed as a locksmith services
 428 business in this state upon applying to the department,
 429 remitting the nonrefundable biennial license fee calculated as
 430 required in s. 559.945(2) (a), and demonstrating to the
 431 department that the applicant:

432 (a) Meets the qualifications for licensure in s. 559.945;

433 or

434 (b) Holds a valid locksmith services business license, or
 435 the equivalent thereof, issued by another state, territory, or
 436 possession of the United States, the District of Columbia, or
 437 the Commonwealth of Puerto Rico with which the department has
 438 established reciprocity.

439 (2) The department may establish reciprocity with other
 440 states, territories, or possessions of the United States, the
 441 District of Columbia, or the Commonwealth of Puerto Rico and may
 442 adopt criteria for establishing reciprocity, subject to the
 443 following:

444 (a) The licensing requirements of the other state,
 445 territory, or possession must substantially meet or exceed the
 446 requirements of s. 559.945.

447 (b) The other state, territory, or possession must issue a
 448 license, or the equivalent thereof, to a locksmith services

449 business that is licensed in this state and seeks to do business
450 in the other state, territory, or possession.

451 559.948 License renewal.—Each locksmith services business
452 license must be renewed biennially on or before the license's
453 expiration date. To apply for renewal of a license, the licensee
454 must submit each of the following to the department:

455 (1) A renewal application in the format prescribed by the
456 department that includes the information required for initial
457 licensure in s. 559.945(1).

458 (2) Payment of the nonrefundable biennial license fee,
459 calculated as required in s. 559.945(2) (a).

460 (3) Proof of liability insurance coverage as required in
461 s. 559.95.

462 (4) For each person listed in s. 559.945(1) (f), an updated
463 affidavit of the person's criminal history, if any.

464 (5) For each person listed in s. 559.945(1) (f) who has not
465 undergone background screening, a set of fingerprints submitted
466 in the manner prescribed by the department, an affidavit of the
467 person's criminal history, if any, and payment of any fees or
468 costs required under s. 559.946.

469 559.949 Denial, suspension, revocation, or refusal to
470 renew license.—The department may deny, suspend, revoke, or
471 refuse to renew the license of a locksmith services business
472 based upon a determination that the locksmith services business
473 or any person listed in s. 559.945(1) (f):

474 (1) Failed to meet the requirements for licensure as
475 provided in this part;

476 (2) Is disqualified based upon background screening

477 pursuant to s. 559.946(2);

478 (3) Received any civil, criminal, or administrative
479 adjudication in any jurisdiction;

480 (4) Has had a judgment entered against the business or
481 person in any action brought under the Florida Deceptive and
482 Unfair Trade Practices Act in part II of chapter 501; or

483 (5) Failed to maintain liability insurance as required in
484 s. 559.95.

485 559.95 Liability insurance.—

486 (1) A locksmith services business must maintain current
487 and valid liability insurance coverage of at least \$100,000 per
488 incident for loss or damages resulting from the negligence of
489 the locksmith services business or any of its locksmiths,
490 apprentice locksmiths, employees, or agents.

491 (2) The insurance coverage must be issued by an insurance
492 company or carrier licensed to transact business in this state
493 under the Florida Insurance Code. The department shall require a
494 locksmith services business to present a policy or certificate
495 of insurance of the required coverage before issuance or renewal
496 of a license. The department shall be named as a
497 certificateholder in the policy or certificate and must be
498 notified at least 30 days before any changes in insurance
499 coverage.

500 (3) Notwithstanding the availability of administrative
501 relief under chapter 120, the department may seek an immediate
502 injunction in the circuit court of the county in which the
503 business is located that prohibits the locksmith services
504 business from operating until the business complies with this

505 section and imposes a civil penalty not to exceed \$10,000 and
506 reasonable court costs.

507 559.951 Locksmiths; apprentice locksmiths; photo
508 identification cards; display of license and license number.—

509 (1) A person may not perform locksmith services on behalf
510 of a locksmith services business unless the person is the
511 licensee or one of the following:

512 (a) Locksmith.—Except as provided in paragraph (b) for an
513 automotive-only locksmith, a locksmith must be 18 years of age
514 or older and complete 16 hours of training, including training
515 in industry ethics and the provisions of the federal Americans
516 with Disabilities Act, the Florida Building Code, the Florida
517 Fire Prevention Code, and the Life Safety Code relating to
518 locksmith services or the installation of locks.

519 (b) Automotive-only locksmith.—An automotive-only
520 locksmith must be 18 years of age or older and complete a
521 training course in industry ethics.

522 (c) Apprentice locksmith.—An apprentice locksmith must be
523 15 years of age or older and complete a minimum of 16 hours of
524 training, including training in industry ethics and the
525 provisions of the federal Americans with Disabilities Act, the
526 Florida Building Code, the Florida Fire Prevention Code, and the
527 Life Safety Code relating to locksmith services or the
528 installation of locks. An apprentice locksmith may perform
529 locksmith services only under the direct and continuous
530 supervision of a locksmith or automotive-only locksmith. An
531 apprentice locksmith may not perform or contract to perform
532 locksmith services without the express approval of his or her

533 supervising locksmith. The supervising locksmith is responsible
534 for any violation of this part committed by the apprentice
535 locksmith.

536 (2) (a) Except as provided in paragraph (b) for an
537 automotive-only locksmith, every 2 years, a locksmith must
538 complete at least 16 hours of training, including training on
539 the provisions of the federal Americans with Disabilities Act,
540 the Florida Building Code, the Florida Fire Prevention Code, and
541 the Life Safety Code relating to locksmith services and the
542 installation of locks.

543 (b) Every 2 years, an automotive-only locksmith must
544 complete at least 8 hours of industry-related training. The
545 training must include, but is not limited to, training in
546 industry ethics.

547 (3) Each locksmith services business must maintain a
548 personnel record of each locksmith, automotive-only locksmith,
549 and apprentice locksmith who performs locksmith services on
550 behalf of the licensee. The personnel record must include:

551 (a) Two copies of a photograph taken of the locksmith,
552 automotive-only locksmith, or apprentice locksmith within 10
553 days after the date that he or she begins to perform locksmith
554 services on behalf of the licensee. One copy shall be used for
555 the locksmith's or apprentice's photo identification card. The
556 second copy shall be retained in his or her personnel record.
557 Both copies of the photograph shall be replaced with a current
558 photograph at least once every 2 calendar years.

559 (b) An affidavit of the locksmith's, automotive-only
560 locksmith's, or apprentice locksmith's criminal history, if any.

561 (c) Documentation provided by the locksmith services
562 business that demonstrates completion of the training required
563 in subsections (1) and (2).

564 (4) Each locksmith services business shall issue a photo
565 identification card to each locksmith, automotive-only
566 locksmith, and apprentice locksmith performing locksmith
567 services on behalf of the licensee. A photo identification card
568 must contain the name and photograph of the locksmith or
569 apprentice, the name of the locksmith services business, and the
570 license number. The photo identification card must also include:

571 (a) For a locksmith, the word "Locksmith."

572 (b) For an automotive-only locksmith, the phrase
573 "Automotive-Only Locksmith."

574 (c) For an apprentice locksmith, the word "Apprentice."

575
576 Each locksmith, automotive-only locksmith, and apprentice
577 locksmith must display the photo identification card on his or
578 her person at all times while performing locksmith services.

579 (5) A locksmith services business must display a copy of
580 its locksmith services business license at each business
581 location in a manner easily readable by the general public. A
582 mobile locksmith services business shall keep a copy of the
583 license in each service vehicle for immediate presentation to
584 any law enforcement officer, state or local official, or member
585 of the general public upon request.

586 (6) Each advertisement or other form of advertising, each
587 service vehicle, and each work order, invoice, sales receipt, or
588 other business form of a licensee must include the license

589 number and name of the locksmith services business as they
590 appear on the license issued by the department.

591 559.952 Acceptable forms of payment; locksmith services
592 business records.—

593 (1) A locksmith services business shall accept at least
594 two of the following methods of payment:

595 (a) Cash, cashier's check, money order, or traveler's
596 check;

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

600 (c) Valid credit card, which includes, but is not limited
601 to, Visa or MasterCard.

602 (2) A locksmith services business shall clearly and
603 conspicuously disclose to the person requesting locksmith
604 services in a work order, invoice, or sales receipt the methods
605 of payment that the locksmith services business accepts.

606 (3) (a) A locksmith services business must retain a copy of
607 each work order, invoice, and sales receipt for at least 2
608 years.

609 (b) Each work order, invoice, and sales receipt must
610 include the name of the person performing the service.

611 (c) A copy of each work order, invoice, and sales receipt
612 must be readily available for inspection at any time during
613 normal business hours by the department.

614 559.953 Prohibited acts.—

615 (1) A person may not:

616 (a) Perform or offer to perform locksmith services without

617 having or acting under a valid license issued by the department
618 under this part.

619 (b) Advertise or represent himself or herself as a
620 locksmith services business without having a valid license
621 issued by the department under this part.

622 (c) Operate a locksmith referral service without having a
623 valid license issued by the department under this part.

624 (2) A licensee, or a locksmith, apprentice locksmith, or
625 other person acting on behalf of a licensee, may not:

626 (a) Require a consumer to waive his or her rights provided
627 in this part as a precondition to the performance of locksmith
628 services.

629 (b) Fail or refuse, after notice, to provide any law
630 enforcement officer or the department with any document or
631 record or disclose any information required to be produced or
632 disclosed.

633 (c) Employ or contract with any person disqualified under
634 s. 559.946 to perform locksmith services on behalf of the
635 licensee.

636 (d) Submit to the department the fingerprints of a person
637 other than the person for whom fingerprints must be submitted
638 pursuant to s. 559.946 or fail to submit replacement
639 fingerprints for a locksmith or apprentice locksmith whose
640 original fingerprint submissions are returned to the department
641 as unclassifiable by the screening agency.

642 (e) Use a mailing address, registration facility, drop
643 box, or answering service in the promotion, advertisement,
644 solicitation, or sale of locksmith services, unless the street

CS/CS/HB 301

2010

645 address of the licensed business location is clearly disclosed
646 during any telephone solicitation and is prominently and
647 conspicuously disclosed in all advertisements and on the work
648 orders, invoices, and sales receipts.

649 (f) Operate as a locksmith services business at a business
650 location other than the location that appears on the license
651 issued by the department.

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

655 (h) Make a material false statement in an application,
656 document, or record required to be submitted or kept under this
657 part.

658 (i) Commit any other act of fraud or misrepresentation or
659 fail to disclose a material fact.

660 (j) Disclose or permit the disclosure of any consumer
661 information without the consumer's written approval, except as
662 authorized by this part.

663 (k) Violate this part or any rule adopted or order issued
664 under this part.

665 559.954 Civil penalties; remedies.—

666 (1) A consumer injured by a violation of this part may
667 bring an action in the appropriate court for relief. The court
668 may award reasonable costs and attorney's fees to the prevailing
669 party. The consumer may also bring an action for injunctive
670 relief in the circuit court.

671 (2) (a) The department may bring an action in a court of
672 competent jurisdiction to recover any penalties or damages

673 authorized in this part and for injunctive relief to enforce
 674 this part.

675 (b) The department may seek a civil penalty of up to
 676 \$10,000 for each violation of this part.

677 (c) The department may seek restitution for and on behalf
 678 of any consumer injured by a violation of this part.

679 (3) An agreement or representation that waives, limits,
 680 restricts, or avoids any duty, obligation, or requirement of a
 681 locksmith services business, as provided in this part, is void.

682 (4) A remedy provided in this part is in addition to any
 683 other remedy otherwise available for the same conduct.

684 559.955 Administrative remedies; penalties.—

685 (1) The department shall process a consumer complaint
 686 against a locksmith services business in the manner described in
 687 ss. 570.07 and 570.544.

688 (2) A locksmith services business shall allow department
 689 personnel to enter its business locations for purposes of
 690 determining whether the license is current. If department
 691 personnel are refused entry or access to the premises, the
 692 department may seek injunctive relief in circuit court to
 693 enforce this subsection.

694 (3) If the department determines that a locksmith services
 695 business has violated, or is operating in violation of, this
 696 part or any rules adopted or orders issued under this part, the
 697 department may enter an order doing one or more of the
 698 following:

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

700 (b) Imposing an administrative fine not to exceed \$10,000

701 for each act or omission.

702 (c) Directing that the locksmith services business cease
703 and desist specified activities.

704 (d) Refusing to issue or renew, suspending, or revoking a
705 license.

706 (e) Placing the licensee on probation for a specified
707 period, subject to conditions specified by the department.

708 (4) Administrative proceedings that may result in an order
709 imposing any of the penalties specified in subsection (3) are
710 governed by chapter 120.

711 (5) In a final order imposing an administrative fine or
712 refusing to issue or renew, suspending, or revoking a license,
713 the department may assess against the sanctioned party the cost
714 of conducting the administrative proceedings, unless the
715 department determines that the offense was inadvertent or done
716 in a good faith belief that the act or omission did not violate
717 a state law or rule. An assessment is limited to the reasonable
718 hourly rate of the hearing officer and the actual cost of
719 recording or transcribing the proceedings.

720 (6) (a) The department shall prominently post a "Closed by
721 Order of the Department" sign on a locksmith services business
722 whose license is suspended or revoked. The department shall also
723 post a sign on a locksmith services business that is judicially
724 or administratively determined to be operating without a
725 license.

726 (b) A person who defaces or removes the sign without
727 written authorization from the department, or a locksmith
728 services business that opens for operation without a license or

729 opens for operation as a locksmith services business while its
730 license is suspended or revoked, commits a misdemeanor of the
731 second degree, punishable as provided in s. 775.082 or s.
732 775.083.

733 (c) A criminal penalty imposed under this subsection shall
734 be in addition to any administrative sanction imposed by the
735 department under subsection (3).

736 559.956 Deceptive and unfair trade practices.—A person who
737 violates any provision of this part commits an unfair or
738 deceptive trade practice and is subject to the penalties and
739 remedies provided in part II of chapter 501.

740 559.957 Criminal penalties.—A person who violates s.
741 559.953 commits a misdemeanor of the first degree, punishable as
742 provided in s. 775.082 or s. 775.083.

743 559.958 Rulemaking authority.—The department shall adopt
744 rules pursuant to ss. 120.536(1) and 120.54 to administer this
745 part. The rules shall include, but are not limited to, the
746 following:

747 (1) Requirements and procedures for the licensure of
748 locksmith services businesses.

749 (2) Requirements and procedures for the fingerprinting and
750 background screening of persons listed in s. 559.945(1)(f) for
751 criminal justice information.

752 (3) Forms required to implement this part, including
753 license applications, renewal applications, fingerprint
754 submissions, affidavits of criminal history, and photo
755 identification cards.

756 (4) Establishment of application, license, renewal, and

757 other reasonable and necessary fees based upon the department's
758 estimate of the costs of administering this part.

759 (5) Establishment and periodic update of a background
760 screening fee schedule to incorporate fee changes by the Federal
761 Bureau of Investigation, the Department of Law Enforcement, and
762 other entities involved in conducting the background screenings.

763 (6) Methods of obtaining and renewing photographs for
764 photo identification.

765 (7) Use and display of licenses and license numbers.

766 559.959 Deposit and use of revenues from fees, civil
767 penalties, and fines.—Any fees, civil penalties, administrative
768 finances, or other funds collected by the department pursuant to
769 this part shall be deposited in the General Inspection Trust
770 Fund and used to administer this part.

771 559.96 Preemption; local business tax receipts.—

772 (1) Effective July 1, 2011, this part preempts any local
773 act, law, ordinance, or regulation of a county or municipality
774 that relates to locksmith services, locksmiths, or locksmith
775 services businesses that does not meet or exceed the
776 requirements of this part.

777 (2) A county or municipality may not issue or renew a
778 local business tax receipt for a locksmith services business
779 unless the person applying for or renewing the local business
780 tax receipt exhibits a valid license issued by the department.

781 559.961 Florida Locksmith Services Advisory Council.—The
782 Florida Locksmith Services Advisory Council is created within
783 the department to advise and assist the department in carrying
784 out this part.

785 (1) The council shall be composed of nine members
 786 appointed by the Commissioner of Agriculture, as follows:

787 (a) Six industry members must be owners or employees of
 788 locksmith services businesses licensed under this part, as
 789 follows:

790 1. Five members must be locksmiths who are owners or
 791 employees of separate, licensed locksmith services businesses
 792 who do not perform automotive-only locksmith services.

793 2. One member must be an automotive-only locksmith who is
 794 an owner or employee of a licensed locksmith services business.

795 (b) One member must be an electrical contractor certified
 796 under part II of chapter 489.

797 (c) One member must have private investigative, private
 798 security, motor vehicle recovery, or law enforcement experience
 799 or expertise.

800 (d) One member must be a consumer who is not affiliated
 801 with any locksmith services business.

802
 803 Each member must be a resident of the state. Each member, except
 804 the consumer member, must have at least 3 years of experience
 805 and be currently engaged in the profession. Initial industry
 806 members must be owners or employees of locksmith services
 807 businesses.

808 (2) Members shall be appointed for 4-year terms, must be
 809 geographically representative of the state, and, unless there is
 810 no other applicant seeking appointment to the council, may not
 811 be appointed for more than two consecutive terms. A member whose
 812 term expires shall continue to serve until his or her successor

813 is appointed. A vacancy occurring before the expiration of a
814 member's term shall be filled by the commissioner for the
815 remainder of the term.

816 (3) (a) The council shall annually elect a chair and a vice
817 chair from among its appointed members.

818 (b) The council shall meet at the call of the chair, upon
819 the request of a majority of its membership, or upon the request
820 of the Commissioner of Agriculture.

821 (c) In conducting its meetings, the council shall use
822 accepted rules of procedure. The department shall keep a
823 complete record of each meeting, which must show the names of
824 the members present and actions taken. The department shall keep
825 the records of the council.

826 (4) Members of the council shall serve without
827 compensation but are entitled to per diem and travel expenses as
828 provided in s. 112.061.

829 (5) The department shall provide administrative and staff
830 support for the council.

831 (6) The council may review any rules adopted by the
832 department pursuant to this part and may advise the department
833 on matters relating to advancements in industry standards,
834 practices, and other issues that require technical expertise and
835 consultation or that promote consumer protection in the
836 locksmith services industry.

837 Section 2. This act shall take effect July 1, 2010.