

By: Homer

H.B. No. 2594

A BILL TO BE ENTITLED

AN ACT

relating to the registration of locksmiths; providing administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 10, Occupations Code, is amended by adding Chapter 1705 to read as follows:

CHAPTER 1705. LOCKSMITHS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1705.001. DEFINITIONS. In this chapter:

(1) "Certificate" means a certificate of registration issued under this chapter.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Commissioner" means the commissioner of licensing and regulation.

(4) "Locksmith" means a person who engages in the business of installing or repairing locks and related security and access control devices.

Sec. 1705.002. POWERS AND DUTIES OF COMMISSIONER AND COMMISSION. (a) The commissioner shall enforce this chapter and may adopt rules relating to all provisions of this chapter.

(b) The commissioner shall prescribe application forms for certificates and shall design the certificates, including an identification numbering system for certificates, cards, and other

1 documents necessary to administer this chapter.

2 (c) The commission may prescribe fees for the renewal or
3 reissuance of a certificate, for the issuance of an updated
4 certificate to reflect a change of address, business name,
5 insurance carrier, or other pertinent information, and for the
6 administration of other functions that the commissioner may perform
7 in administering and enforcing this chapter.

8 (d) The commissioner may exercise discretion in informally
9 addressing any technical violation of this chapter that is
10 self-reported by a certificate holder.

11 Sec. 1705.003. EXEMPTIONS. (a) This chapter does not apply
12 to a person licensed by the Texas Commission on Private Security.

13 (b) This chapter does not apply to the installation of locks
14 and related security and access control devices to a new structure
15 to be used as a residence.

16 Sec. 1705.004. ELECTRONIC AVAILABILITY OF INFORMATION. The
17 commission shall work with the comptroller and otherwise take steps
18 to make available to the public, through the Internet, information
19 regarding the issuance, revocation, and suspension of
20 certificates.

21 [Sections 1705.005-1705.050 reserved for expansion]

22 SUBCHAPTER B. CERTIFICATE REQUIREMENTS

23 Sec. 1705.051. VOLUNTARY REGISTRATION. (a) The
24 registration program established under this chapter is voluntary.
25 A locksmith who wishes to hold a certificate must comply with this
26 chapter.

27 (b) Only a certificate holder may advertise that the person

1 is registered with the state as a locksmith.

2 Sec. 1705.052. APPLICATION ON FORM PRESCRIBED BY
3 COMMISSIONER. An application for a certificate must be made on a
4 form prescribed by the commissioner.

5 Sec. 1705.053. INDIVIDUAL APPLICATION FOR CERTIFICATE. (a)
6 To be eligible for a certificate, a person must be a locksmith.

7 (b) An application must:

8 (1) include the applicant's:

9 (A) name;

10 (B) telephone number; and

11 (C) mailing address and, if different from the
12 mailing address, the address where the applicant's business is
13 located;

14 (2) be accompanied by a nonrefundable application fee
15 not to exceed \$225;

16 (3) be accompanied by evidence of the insurance
17 coverage required by this chapter in a manner provided by rule by
18 the commissioner; and

19 (4) be accompanied by a declaration that the person
20 has not been convicted of a felony or, if the applicant has been
21 convicted of a felony, a declaration of all misdemeanors and
22 felonies for which the person has been convicted.

23 Sec. 1705.054. CRIMINAL HISTORY RECORD CHECK REQUIRED.

24 Before issuing a certificate to an individual, the commission shall
25 conduct a criminal background check under Section 411.122,
26 Government Code, to determine whether the applicant has been
27 convicted of a felony.

1 Sec. 1705.055. EFFECT OF CRIMINAL CONVICTION. (a) A person
2 who has been convicted of a felony is not eligible for a certificate
3 until the fifth anniversary of the date the person's voting rights
4 were restored.

5 (b) The commissioner shall revoke the certificate of a
6 certificate holder who is imprisoned as a result of a felony
7 conviction, felony community supervision revocation, parole
8 revocation, or revocation of mandatory supervision.

9 (c) A person convicted of a felony whose voting rights have
10 been restored for at least five years may apply for and receive a
11 certificate if the commissioner determines that issuing a
12 certificate does not pose a threat to public safety. In making the
13 determination under this subchapter, the commissioner may
14 consider:

15 (1) the extent and nature of the person's past criminal
16 activity;

17 (2) the age of the person when the crime was committed;

18 (3) the amount of time that has passed since the date
19 of the person's last criminal activity;

20 (4) any evidence of the person's rehabilitation or
21 rehabilitative effort during imprisonment or after release;

22 (5) other evidence of the person's fitness, including
23 letters of recommendation; and

24 (6) any other information that the commissioner may
25 consider when evaluating an applicant.

26 (d) A person who is denied a certificate under Subsection
27 (c) may appeal the commissioner's determination not later than the

1 90th day after the date of the issuance of a letter of denial. An
2 appeal under this subsection is subject to Chapter 2001, Government
3 Code.

4 Sec. 1705.056. INSURANCE REQUIREMENT. (a) Each
5 certificate holder shall maintain general liability insurance
6 coverage with a minimum value of \$50,000 for each occurrence,
7 whether the claim arises out of negligence or breach of contract.

8 (b) The commissioner may adopt rules for determining,
9 electronically or otherwise, whether a certificate holder has and
10 maintains the prescribed insurance coverage. The commissioner may
11 require each applicant and certificate holder to provide
12 information as necessary to enforce this section.

13 [Sections 1705.057-1705.100 reserved for expansion]

14 SUBCHAPTER C. CERTIFICATE RENEWAL

15 Sec. 1705.101. ANNUAL RENEWAL. (a) A certificate is valid
16 for one year after the date of issuance and may be renewed before
17 its expiration date on payment of a renewal fee not to exceed \$100
18 and compliance with any renewal requirements adopted by rule by the
19 commissioner.

20 (b) A certificate holder whose certificate expires may
21 renew the certificate not later than the 30th day after the date it
22 expires by paying the renewal fee and a late fee not to exceed \$50.

23 (c) A certificate holder whose certificate has expired and
24 who does not apply for renewal before the 31st day after the
25 certificate's expiration date may not renew the certificate and
26 must file an original application with the commissioner to be
27 registered under this chapter.

1 [Sections 1705.102-1705.150 reserved for expansion]

2 SUBCHAPTER D. PRACTICE BY CERTIFICATE HOLDER

3 Sec. 1705.151. BOND REQUIREMENT. If requested by a
4 customer, a certificate holder shall post a performance bond in the
5 amount requested by the customer, but not to exceed \$25,000.

6 [Sections 1705.152-1705.200 reserved for expansion]

7 SUBCHAPTER E. CERTIFICATE DENIAL AND DISCIPLINARY PROCEDURES

8 Sec. 1705.201. DENIAL, SUSPENSION, OR REVOCATION OF
9 CERTIFICATE. (a) A violation of this chapter or a rule adopted
10 under this chapter is a ground for:

11 (1) the denial, suspension, or revocation of a
12 certificate; or

13 (2) the imposition of an administrative penalty under
14 Chapter 51.

15 (b) The commissioner may adopt rules to impose additional
16 sanctions, including restrictions on advertising, probationary
17 measures, additional reporting requirements, and other reasonable
18 sanctions the commissioner determines necessary to protect the
19 public.

20 Sec. 1705.202. COMPLICITY. A person may not aid or abet a
21 person to violate this chapter.

22 Sec. 1705.203. FALSE REPRESENTATION AS REGISTERED
23 LOCKSMITH; ADMINISTRATIVE PENALTY. A person who knowingly
24 represents that the person is registered as a locksmith in this
25 state without holding a certificate is subject to an administrative
26 penalty under Chapter 51. A person required to pay an
27 administrative penalty based on conduct described by this section

1 may not apply for a certificate under this chapter before the 10th
2 anniversary of the date the penalty was imposed.

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

8 (b) The commissioner may exercise discretion in subjecting
9 an applicant or certificate holder to an administrative penalty
10 under Chapter 51 if the applicant or certificate holder made an
11 unintentional misstatement or nonmaterial misstatement on an
12 initial or renewal application.

13 SECTION 2. This Act takes effect January 1, 2004.