

House Bill 3127

Sponsored by COMMITTEE ON BUSINESS AND LABOR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Board of Locksmiths within Construction Contractors Board. Requires person performing locksmithing services to be licensed by board. Requires business offering locksmithing services to provide services through employee licensed by board. Imposes information and record keeping requirements. Imposes information gathering requirement on locksmiths opening building or vehicle for person. Prohibits sale of locksmithing tools other than to locksmith or business employing locksmith. Prohibits duplicating certain keys.

Makes violations of statutes or board rules subject to civil penalty, not to exceed \$10,000.

A BILL FOR AN ACT

1
2 Relating to locksmithing.

3 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. As used in sections 1 to 21 of this 2009 Act:

4
5 (1) **“Lock” means any mechanical, electromechanical, electronic or electromagnetic de-**
6 **vice or similar device, including any peripheral hardware, that is designed to control access**
7 **from one area to another or that is designed to control the use of a device that could be used**
8 **in a commercial, residential or automotive application.**

9 (2) **“Locksmith” means a person who provides locksmithing services.**

10 (3) **“Locksmithing services” means:**

11 (a) **Servicing, repairing, rebuilding, rekeying, repinning, adjusting or installing locks,**
12 **mechanical or electronic security devices, safes or vaults; and**

13 (b) **Operating a lock, mechanical or electrical security device, safe or vault by a means**
14 **other than those intended by the manufacturer of the locking or security device, safe or**
15 **vault.**

16 (4) **“Locksmithing tool” means:**

17 (a) **Any tool for the purpose of opening, bypassing, altering, modifying, rebuilding, ser-**
18 **vic-ing, rekeying or repairing locks; and**

19 (b) **Lock picks or other devices for bypassing locks by a means other than normal oper-**
20 **ation.**

21 **SECTION 2. (1) There is established within the Construction Contractors Board a Board**
22 **of Locksmiths. The board shall consist of nine members appointed by the Governor.**

23 (2) **The term of office of each board member is three years, but a member serves at the**
24 **pleasure of the Governor. Before the expiration of the term of a member, the Governor shall**
25 **appoint a successor whose term begins on July 1 next following. A member is eligible for**
26 **reappointment. If there is a vacancy for any cause, the Governor shall make an appointment**
27 **to become immediately effective for the unexpired term.**

28 (3) **The appointment of a board member is subject to confirmation by the Senate in the**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 manner prescribed in ORS 171.562 and 171.565.

2 (4) A member of the board is entitled to compensation and expenses as provided in ORS
3 292.495.

4 **SECTION 3.** All members of the Board of Locksmiths must be residents of this state. In
5 making appointments to the board, the Governor shall give consideration to the geographic
6 diversity of appointees. Six members of the board shall be members of the locksmithing
7 profession. A locksmith member must have five or more years of experience as a locksmith
8 and be actively engaged in the profession of locksmithing. Three members of the board shall
9 be public members who are not by training or experience locksmiths, are not a spouse, par-
10 ent, child or sibling of a locksmith and do not have a direct or indirect financial interest,
11 except as a consumer, in the locksmithing profession.

12 **SECTION 4.** (1) The Board of Locksmiths shall select one of its members as chairperson
13 and another as vice chairperson, for such terms and with duties and powers necessary for
14 the performance of the functions of such offices as the board determines.

15 (2) A majority of the members of the board constitutes a quorum for the transaction of
16 business.

17 (3) The board shall meet at times and places specified by the call of the chairperson or
18 of a majority of the members of the board.

19 (4) The board may appoint a director to serve at the pleasure of the board.

20 **SECTION 5.** In accordance with applicable provisions of ORS chapter 183, the Board of
21 Locksmiths may adopt rules for carrying out the duties, functions and powers of the board,
22 including but not limited to rules for the following:

23 (1) Standards for the licensing of locksmiths.

24 (2) Approval of apprenticeship programs. An approved apprenticeship program must be
25 at least two years in length and provide at least 64 hours of classroom time per year.

26 (3) Examining applicants for licenses issued by the board.

27 (4) Standards of professional conduct for persons licensed by the board.

28 (5) The renewal, revocation or suspension of, or refusal to renew, licenses.

29 (6) Establishing fees and charges for services provided by the board. The fees and charges
30 established by the board are subject to the prior approval of the Oregon Department of Ad-
31 ministrative Services and, if their adoption occurs between regular sessions of the Legisla-
32 tive Assembly, a report to the Emergency Board. The fees and charges may not exceed the
33 cost of administering the regulatory program pertaining to the purpose for which the fee or
34 charge is established, as authorized by the Legislative Assembly within the Board of
35 Locksmiths' budget, as that budget may be modified by the Emergency Board.

36 **SECTION 6.** The Board of Locksmiths, the director appointed by the board and author-
37 ized representatives of the board may administer oaths, take depositions and issue subpoenas
38 to compel the attendance of witnesses and the production of documents or other written
39 information necessary to carry out the provisions of sections 1 to 21 of this 2009 Act. If any
40 person fails to comply with a subpoena issued under this section or refuses to testify on
41 matters on which the person lawfully may be interrogated, the procedure set out in ORS
42 183.440 shall be followed to compel obedience.

43 **SECTION 7.** (1) The Board of Locksmiths may establish such advisory and technical
44 committees as the board considers necessary to aid and advise the board in the performance
45 of board functions. These committees may be continuing or temporary committees. The

1 board shall determine the representation, membership, terms and organization of the com-
2 mittees and shall appoint their members.

3 (2) Members of the committees are not entitled to compensation, but at the discretion
4 of the board may be reimbursed from funds available to the board for actual and necessary
5 travel and other expenses incurred by the members in the performance of their official du-
6 ties, in the manner and amount provided in ORS 292.495.

7 **SECTION 8.** (1) A person may not operate as a locksmith in this state without a valid
8 locksmith license issued under section 11 of this 2009 Act. The prohibition in this subsection
9 includes, but is not limited to:

10 (a) Using the title of locksmith, locksmith professional, commercial locksmith, lock in-
11 staller or any title using a form of the word "locksmith" that indicates or tends to indicate
12 that the person is a locksmith; and

13 (b) Using any sign, card or device that indicates or tends to indicate that the person is
14 a locksmith.

15 (2) It is prima facie evidence that a person is operating as a locksmith if the person
16 possesses locksmithing tools, safe-opening tools, key-code books, locksmith software or
17 locksmith instructional videos.

18 **SECTION 9.** Section 8 of this 2009 Act does not apply to:

19 (1) Members of police departments, fire departments or other government agencies act-
20 ing within the scope of their official duties;

21 (2) Sales representatives making sales demonstrations to locksmiths;

22 (3) An owner of real property installing, repairing or replacing a lock to secure that real
23 property;

24 (4) A person possessing or operating a key duplication machine or key blanks;

25 (5) An automotive service dealer, lock manufacturer or manufacturer agent when ser-
26 vicing, installing, repairing or rebuilding an automotive lock;

27 (6) A person installing locks or locking devices as part of a construction, remodel or re-
28 pair of a building for which a building permit has been issued; or

29 (7) A locksmith apprentice acting within the scope of an apprentice license issued under
30 section 12 of this 2009 Act.

31 **SECTION 10.** For purposes of requesting a state or nationwide criminal records check
32 under ORS 181.534, the Board of Locksmiths may require the fingerprints of a person who:

33 (1) Is applying for a license that is issued by the board;

34 (2) Is applying for renewal of a license issued by the board;

35 (3) Is under investigation by the board;

36 (4) Is applying for employment by the board; or

37 (5) Will be providing services to the board that will give the person access to information
38 or records of the board regarding board licensees.

39 **SECTION 11.** (1) An applicant for licensing by the Board of Locksmiths must submit an
40 application on a form approved by the board and pay any application fee established by the
41 board. The board shall issue a locksmith license to an applicant who:

42 (a) Has successfully completed an apprenticeship program approved by the board;

43 (b) Passes an examination approved by the board;

44 (c) Provides evidence satisfactory to the board that the applicant is of good moral char-
45 acter;

1 (d) Shows proof that the person has complied with any insurance and bonding require-
2 ments established by the board;

3 (e) Pays any licensing fee adopted by the board; and

4 (f) Meets any other qualifications for licensure established by board rule.

5 (2) Notwithstanding subsection (1) of this section, the board may license without exam-
6 ination or proof of apprenticeship a person that holds a locksmith license from another state
7 with which reciprocity has been established by the board.

8 (3) A locksmith license is valid for two years from the date of issuance unless revoked
9 or suspended. A license may be renewed as provided by board rule.

10 **SECTION 12.** (1) Upon compliance with section 11 of this 2009 Act, the Board of
11 Locksmiths may issue a person a general locksmith license or limited locksmith license. A
12 general license allows a person to perform all types of locksmithing services. A limited li-
13 cense allows a person to perform locksmithing only of the type for which the license is en-
14 dorsed.

15 (2) The types of locksmithing for which a limited license endorsement is available are
16 residential, commercial, safe and automotive. A residential endorsement allows a person to
17 perform locksmithing only on single family dwellings. A commercial endorsement allows a
18 person to perform locksmithing services on single family or multifamily dwellings and com-
19 mercial, industrial and institutional structures. A safe endorsement allows a person to
20 practice locksmithing on safes, vaults and other security containers. An automotive
21 endorsement allows a person to perform locksmithing services on motor vehicles.

22 (3) The board may issue a locksmith apprentice license to a person enrolled in a board-
23 approved locksmith apprenticeship program. A locksmith apprentice license allows the per-
24 son to engage in locksmithing services under the supervision of a person holding a general
25 locksmith license.

26 **SECTION 13.** (1) The Board of Locksmiths shall adopt rules establishing continuing edu-
27 cation requirements for locksmiths. The board may not require a locksmith to take more
28 than 16 hours of continuing education every two years.

29 (2) The board may approve programs for purposes of continuing education for locksmiths
30 and determine the number of hours to be credited to the programs. The board shall ensure
31 that continuing education opportunities for locksmiths are readily available.

32 (3) Programs approved by the board for continuing education purposes must be designed
33 to directly contribute to the professional competency of locksmiths.

34 (4) The board may adopt rules establishing grounds for obtaining a waiver of the contin-
35 uing education requirements due to military service, retirement, disability, absence from the
36 state, inactive status or extreme hardship.

37 **SECTION 14.** The Board of Locksmiths may revoke, suspend or refuse to renew a license
38 issued by the board, and may impose a civil penalty under section 22 of this 2009 Act, if the
39 licensee:

40 (1) Makes a material misrepresentation in an application for licensure;

41 (2) Refuses to make available or provide copies of records or information to a peace of-
42 ficer or the board;

43 (3) Commits an act indicating the person is unfit to hold a license as a locksmith;

44 (4) Violates the professional standards established for locksmiths by board rule; or

45 (5) Performs locksmithing services that are outside the scope of the license held by the

1 person.

2 **SECTION 15.** The Board of Locksmiths shall maintain a list of the names and addresses
 3 of all locksmiths licensed under section 11 of this 2009 Act. The board shall make the list
 4 available to the public by Internet or, upon request and payment of a fee established by the
 5 board, by mail.

6 **SECTION 16.** (1) A person licensed by the Board of Locksmiths must wear and visibly
 7 display an identification badge indicating the person’s status as a licensed locksmith while
 8 performing work for which licensure is required. The board shall specify the size and content
 9 of the identification badge and establish other specifications as the board deems appropriate.
 10 The badge must include a photograph of the licensee.

11 (2) A locksmith shall notify the board of any change of address while licensed and during
 12 the 12-month period following the date the locksmith’s license expires or otherwise becomes
 13 inactive. The locksmith shall notify the board within 10 days of the date upon which the
 14 change of address occurs. Notices directed by the board to the last-known address of record
 15 shall be considered delivered when deposited in the United States mail to the last-known
 16 address of record.

17 (3) If a locksmith performs locksmithing services at a regular place of business, the
 18 locksmith shall display a license certificate issued by the board at the normal place of busi-
 19 ness in a location where the certificate is easily readable by the general public.

20 (4) A locksmith shall display the license number of the locksmith in any advertising by
 21 the locksmith. A business employing not more than three locksmiths shall display the license
 22 numbers for the locksmiths in any advertising of locksmithing services by the business.

23 **SECTION 17.** (1) A business may not provide locksmithing services unless the individual
 24 performing the services has a valid locksmith license issued under section 11 of this 2009 Act.
 25 If a business offering locksmithing services hires or terminates a locksmith, no later than
 26 10 days after the hiring or termination the business shall inform the Board of Locksmiths
 27 of the hiring or termination. The business shall retain a copy of any information provided
 28 to the board under this section for at least 24 months.

29 (2) A business offering locksmithing services shall maintain a record of each locksmith
 30 employed by the business that contains the following:

31 (a) A photograph of the locksmith that is not more than three years old.

32 (b) A record of all board-approved continuing education attended by the employee to-
 33 gether with the dates of attendance.

34 (3) The business shall allow the board complete access to the information and records
 35 described in this section during normal business hours and shall provide copies to the board
 36 upon request.

37 **SECTION 18.** A person who engages in performing or providing locksmithing services
 38 may not maintain any suit or action in the courts of this state arising out of the perform-
 39 ance of locksmithing services unless the person proves that the services were performed by
 40 a person acting within the scope of a license issued by the Board of Locksmiths.

41 **SECTION 19.** (1) A locksmith who opens any residential or commercial building for an-
 42 other person, whether or not for compensation, shall make a reasonable attempt to obtain
 43 correct information regarding the street address of the building and the signature of the
 44 person for whom the building was opened on a work order form. The locksmith shall also
 45 obtain the name, address and telephone number of the person and indicate the nature of any

1 identification presented to the locksmith to verify all or part of that information.

2 (2) A locksmith who opens a motor vehicle for another person, whether or not for com-
3 pensation, shall make a reasonable attempt to obtain correct information regarding the
4 registration or identification number of the vehicle and the signature of the person for whom
5 the vehicle was opened on a work order form. The locksmith shall also obtain the name,
6 address and telephone number of the person and indicate the nature of any identification
7 presented to the locksmith to verify all or part of that information.

8 (3) A locksmith shall retain a copy of each work order required under this section for
9 at least one year. The work order must include the name and license number of the
10 locksmith performing the service. A locksmith shall make the work order available for in-
11 spection by any peace officer or the Board of Locksmiths during business hours and shall
12 provide copies of the work order to the peace officer or board upon request.

13 SECTION 20. A person may not duplicate a key if the key is clearly marked with an in-
14 struction that the key is not to be duplicated or that duplication is unlawful.

15 SECTION 21. A person may not sell locksmithing tools within this state to a person other
16 than a locksmith licensed by any state or a business employing a locksmith licensed by any
17 state.

18 SECTION 22. The Board of Locksmiths may impose a civil penalty, not to exceed \$10,000,
19 on a person who:

- 20 (1) Violates section 8, 16, 17, 19, 20 or 21 of this 2009 Act or any rule of the board; or
- 21 (2) Commits an act described in section 14 of this 2009 Act.

22 SECTION 23. Notwithstanding the term of office specified by section 2 of this 2009 Act,
23 of the members first appointed to the Board of Locksmiths:

- 24 (1) Three shall serve for a term ending June 30, 2011.
- 25 (2) Three shall serve for a term ending June 30, 2012.
- 26 (3) Three shall serve for a term ending June 30, 2013.

27 SECTION 24. (1) The Board of Locksmiths shall adopt rules and establish licensing pro-
28 cedures in time to make locksmith licenses available no later than July 1, 2010.

29 (2) Notwithstanding section 11 of this 2009 Act, a person applying on or before July 1,
30 2012, for a locksmith license is not required to have completed a board-approved apprentice-
31 ship program. The board may, however, require the person to demonstrate education, expe-
32 rience and practical skills that qualify the person for licensure.

- 33 (3) Sections 8, 16 to 19 and 21 of this 2009 Act become operative January 1, 2011.

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