

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS55133-Luf-36 (3/11)

Short Title: Amend Locksmith Act/Criminal Checks/Fees. (Public)

Sponsors: Senator Metcalf.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT MAKING CLARIFYING CHANGES TO THE DEFINITION OF
2 LOCKSMITH SERVICES UNDER THE LOCKSMITH LICENSING ACT,
3 AMENDING THE POWERS OF THE NORTH CAROLINA LOCKSMITH
4 LICENSING BOARD TO ALLOW THE BOARD TO EMPLOY AN ATTORNEY
5 AND ALLOW THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL
6 HISTORY RECORD CHECKS UPON THE BOARD'S REQUEST,
7 AUTHORIZING THE BOARD TO REQUIRE CRIMINAL HISTORY RECORD
8 CHECKS OF PERSONS APPLYING TO PRACTICE LOCKSMITHING IN THIS
9 STATE, AMENDING THE LOCKSMITH LICENSING ACT TO ALLOW THE
10 BOARD TO REGULATE APPRENTICE LOCKSMITHS AND COLLECT FEES,
11 CLARIFYING THE EXEMPTION FOR TOWING SERVICES UNDER THE
12 ACT, AND ALLOWING THE DEPARTMENT OF JUSTICE TO CONDUCT
13 CRIMINAL HISTORY RECORD CHECKS FROM STATE AND NATIONAL
14 REPOSITORIES OF CRIMINAL HISTORY OF APPLICANTS FOR LICENSURE
15 OR APPRENTICE DESIGNATION UPON THE REQUEST OF THE BOARD.

16 The General Assembly of North Carolina enacts:

17 **SECTION 1.** G.S. 74F-4(5) reads as rewritten:

18 "(5) Locksmith services. – Repairing, rebuilding, rekeying, repinning,
19 servicing, adjusting, or installing locks, mechanical or electronic
20 locking devices, access control devices, egress control devices, safes,
21 vaults, and safe-deposit boxes for compensation or other consideration,
22 including services performed by safe technicians."

23 **SECTION 2.** G.S. 74F-6 is amended by adding the following new
24 subdivisions to read:

25 "The Board shall have the power and duty to:

26 ...
27

1 (12a) Employ an attorney to assist or represent the Board in enforcing this
2 Chapter.

3 ...

4 (15) Request that the Department of Justice conduct criminal history record
5 checks of applicants for licensure and apprenticeships pursuant to G.S.
6 114-19.8A."

7 **SECTION 3.** G.S. 74F-7 reads as rewritten:

8 "**§ 74F-7. Qualifications for license.**

9 An applicant shall be licensed as a locksmith if the applicant meets all of the
10 following qualifications:

11 (1) Is of good moral and ethical character.

12 (2) Is at least 18 years of age.

13 (3) Successfully completes an examination administered by the Board that
14 measures the knowledge and skill of the applicant in locksmith
15 services and the laws applicable to licensed locksmiths.

16 (4) Passes a criminal history record check pursuant to G.S. 74F-18.

17 ~~(4)~~(5) Pays the required fee under G.S. 74F-9."

18 **SECTION 4.** Chapter 74F of the General Statutes is amended by adding a
19 new section to read:

20 "**§ 74F-7A. Apprentices.**

21 (a) An applicant may receive an apprentice designation if the applicant meets all
22 of the following requirements:

23 (1) Is of good moral and ethical character.

24 (2) Is at least 18 years of age.

25 (3) Passes a criminal history record check pursuant to G.S. 74F-18.

26 (4) Pays the required fee under G.S. 74F-9.

27 (b) After an applicant has satisfied the requirements in subsection (a) of this
28 section, the apprentice may practice as an apprentice locksmith under the supervision of
29 a licensed locksmith. The Board shall issue each apprentice a colored badge card that
30 identifies the individual as an apprentice and includes the apprentice designation. The
31 Board shall establish requirements for apprentice supervision.

32 (c) An apprentice may have the apprentice designation for no greater than three
33 years. On or before the three-year period expires, the apprentice shall take the locksmith
34 licensure examination administered by the Board. If the apprentice fails to take the
35 examination within the three-year period or fails the exam and does not retake the
36 examination on or before the three-year period expires, the apprentice shall not receive
37 licensure and shall not be granted another apprenticeship.

38 (d) If an apprentice terminates employment with a licensed locksmith under
39 which the apprentice originally received his or her apprenticeship, the apprentice shall
40 find employment with another licensed locksmith to maintain the apprentice designation
41 and shall pay a transfer fee pursuant to G.S. 74F-9.

42 Each licensed locksmith shall have no more than two apprentices at one time.
43 However, a licensed locksmith shall have a 90-day grace period within which to
44 accommodate more than two apprentices if the apprentice is newly hired as a result of a

1 previous termination of employment or the death of a licensed locksmith that supervised
 2 the apprentice. The licensed locksmith shall contact the Board once the locksmith
 3 terminates the additional apprentice and the licensed locksmith shall be legally
 4 responsible for the apprentice's work until the Board is notified otherwise."

5 **SECTION 5.** G.S. 74F-9 reads as rewritten:

6 "**§ 74F-9. Fees.**

7 The Board shall establish fees not exceeding the following amounts:

8	(1) Issuance of a license	\$100.00
9	(2) Renewal of a license	\$100.00
10	(3) Examination	\$200.00
11	(4) Reinstatement	\$150.00
12	(5) Late fees	\$150.00 \$150.00
13	(6) <u>Apprentice fee</u>	\$100.00
14	(7) <u>Apprentice transfer fee</u>	\$25.00."

15 **SECTION 6.** G.S. 74F-16(4) reads as rewritten:

16 "The provisions of this Chapter do not apply to:

17 ...

- 18 (4) An employee of a towing ~~service~~,service or an automotive repair
 19 business providing services in the normal course of its business, a
 20 repossessor, a taxi cab service, a motor vehicle dealer as defined in
 21 G.S. 20-286(11), or a motor club as defined in G.S. 58-69-1 when
 22 opening automotive locks in the normal course of their duties, so long
 23 as the employee does not represent himself or herself as a locksmith.

24 ..."

25 **SECTION 7.** Chapter 74F of the General Statutes is amended by adding a
 26 new section to read:

27 "**§ 74F-18. Criminal history record checks of applicants for licensure or**
 28 **apprentice designation.**

29 (a) Definitions. – The following definitions shall apply in this section:

- 30 (1) Applicant. – A person applying for licensure as a locksmith pursuant
 31 to G.S. 74F-7 or apprentice designation pursuant to G.S. 74F-7A.
 32 (2) Criminal history. – A history of conviction of a State crime, whether a
 33 misdemeanor or felony, that bears on an applicant's fitness for
 34 licensure to practice locksmithing. The crimes include the criminal
 35 offenses set forth in any of the following Articles of Chapter 14 of the
 36 General Statutes: Article 5, Counterfeiting and Issuing Monetary
 37 Substitutes; Article 5A, Endangering Executive and Legislative
 38 Officers; Article 6, Homicide; Article 7A, Rape and Other Sex
 39 Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction;
 40 Article 13, Malicious Injury or Damage by Use of Explosive or
 41 Incendiary Device or Material; Article 14, Burglary and Other
 42 Housebreakings; Article 15, Arson and Other Burnings; Article 16,
 43 Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19,
 44 False Pretenses and Cheats; Article 19A, Obtaining Property or

1 Services by False or Fraudulent Use of Credit Device or Other Means;
2 Article 19B, Financial Transaction Card Crime Act; Article 20,
3 Frauds; Article 21, Forgery; Article 26, Offenses Against Public
4 Morality and Decency; Article 26A, Adult Establishments; Article 27,
5 Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31,
6 Misconduct in Public Office; Article 35, Offenses Against the Public
7 Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection
8 of Minors; Article 40, Protection of the Family; Article 59, Public
9 Intoxication; and Article 60, Computer-Related Crime. The crimes
10 also include possession or sale of drugs in violation of the North
11 Carolina Controlled Substances Act in Article 5 of Chapter 90 of the
12 General Statutes and alcohol-related offenses including sale to
13 underage persons in violation of G.S. 18B-302 or driving while
14 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

15 (b) All applicants for licensure or apprentice designation shall consent to a
16 criminal history record check. Refusal to consent to a criminal history record check may
17 constitute grounds for the Board to deny licensure or apprentice designation to an
18 applicant. The Board shall ensure that the State and national criminal history of an
19 applicant is checked. The Board shall be responsible for providing to the North Carolina
20 Department of Justice the fingerprints of the applicant to be checked, a form signed by
21 the applicant consenting to the criminal record check and the use of fingerprints and
22 other identifying information required by the State or National Repositories, and any
23 additional information required by the Department of Justice. The Board shall keep all
24 information obtained pursuant to this section confidential.

25 (c) If an applicant's criminal history record check reveals one or more
26 convictions listed under subdivision (a)(2) of this section, the conviction shall not
27 automatically bar licensure. The Board shall consider all of the following factors
28 regarding the conviction:

- 29 (1) The level of seriousness of the crime.
- 30 (2) The date of the crime.
- 31 (3) The age of the person at the time of the conviction.
- 32 (4) The circumstances surrounding the commission of the crime, if known.
- 33 (5) The nexus between the criminal conduct of the person and the job
34 duties of the position to be filled.
- 35 (6) The person's prison, jail, probation, parole, rehabilitation, and
36 employment records since the date the crime was committed.
- 37 (7) The subsequent commission by the person of a crime listed in
38 subsection (a) of this section.

39 If, after reviewing the factors, the Board determines that the grounds set forth in
40 subdivision (1), (2), (3), (4), (5), or (6) of this subsection exist, the Board may deny
41 licensure or apprentice designation of the applicant. The Board may disclose to the
42 applicant information contained in the criminal history record check that is relevant to
43 the denial. The Board shall not provide a copy of the criminal history record check to
44 the applicant. The applicant shall have the right to appear before the Board to appeal the

1 Board's decision. However, an appearance before the full Board shall constitute an
2 exhaustion of administrative remedies in accordance with Chapter 150B of the General
3 Statutes.

4 (d) Limited Immunity. – The Board, its officers and employees, acting in good
5 faith and in compliance with this section, shall be immune from civil liability for
6 denying licensure or apprentice designation to an applicant based on information
7 provided in the applicant's criminal history record check."

8 **SECTION 8.** Article 4 of Chapter 114 of the General Statutes is amended by
9 adding a new section to read:

10 **§ 114-19.8A. Criminal record checks of applicants for licensure or apprentice**
11 **designation.**

12 The Department of Justice may provide to the North Carolina Locksmith Licensing
13 Board from the State and National Repositories of Criminal Histories the criminal
14 history of any applicant for licensure as a locksmith or an apprentice under Chapter 74F
15 of the General Statutes. Along with the request, the Board shall provide to the
16 Department of Justice the fingerprints of the applicant, a form signed by the applicant
17 consenting to the criminal record check and use of fingerprints and other identifying
18 information required by the State and National Repositories, and any additional
19 information required by the Department of Justice. The applicant's fingerprints shall be
20 forwarded to the State Bureau of Investigation for a search of the State's criminal
21 history record file and the State Bureau of Investigation shall forward a set of
22 fingerprints to the Federal Bureau of Investigation for a national criminal history record
23 check. The Board shall keep all information obtained pursuant to this section
24 confidential. The Department of Justice may charge a fee to offset the cost incurred by it
25 to conduct a criminal record check under this section. The fee shall not exceed the
26 actual cost of locating, editing, researching, and retrieving the information."

27 **SECTION 9.** This act is effective when it becomes law.