COMMITTEE REPORT

May 8, 2018

**H. 3038**

Introduced by Reps. Duckworth, Clemmons, Johnson, Atkinson, Daning and Whipper

S. Printed 5/8/18--S.

Read the first time April 4, 2017.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3038) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 42 to Title 40 so as to provide for the licensure of locksmiths; to define necessary terminology, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Title 33 of the 1976 Code is amended by adding:

“CHAPTER 58

Locksmith Registration

Section 33-58-110. For purposes of this chapter:

(1) ‘Lock’ means a mechanical, electromechanical, electronic, or electromagnetic device or similar device, including peripheral hardware, that is designed to control access from one area to another or that is designed to control the use of a device. These devices, if operated by electrical current, shall include both alternating current and direct current low voltage.

(2) ‘Locksmith’ means a person who directly or indirectly engages in the business of rekeying, installing, repairing, opening, or modifying locks or who originates keys for locks.

Section 33-58-120. (A) In order to safeguard public welfare, health, and property and to promote the public good, a person seeking to provide or to offer to provide locksmith services to the public must submit to the Secretary of State evidence that he is qualified to provide locksmith services and must obtain registration as a locksmith as provided in this chapter. It is unlawful for a person to provide or to offer to provide locksmith services to the public or to use the term or title ‘locksmith’ unless registered under the provisions of this chapter.

(B) To be qualified for registration as a locksmith in this State, an applicant must:

(1) be at least eighteen years of age;

(2) submit an application on forms prescribed by the Secretary of State and a registration fee of fifty dollars; and

(3) submit to a state criminal record check, supported by fingerprints, by the State Law Enforcement Division and a national criminal record check, supported by fingerprints, by the Federal Bureau of Investigation. The results of the criminal record checks must be reported to the Secretary of State. The applicant is responsible for all costs associated with the criminal record checks.

(C) The Secretary of State may not register a person who:

(1) is a registered sex offender or is convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for an offense for which he is required to register as a sex offender as enumerated in Section 23-3-430(C);

(2) has had a prior license or registration to do business as a locksmith revoked for fraud or misrepresentation;

(3) has been convicted of a violent crime as defined by Section 16-1-60;

(4) has been convicted of a felony; or

(5) has been convicted of a crime of moral turpitude.

(D) The Secretary of State shall issue a registration number and a certificate bearing the registration number providing status as a registered locksmith. A registered locksmith shall, on demand, provide this certificate for inspection at the request of any person seeking locksmith services. A list of registered locksmiths shall also be available on the Secretary of State’s website.

(E) The Secretary of State shall revoke the registration of a person registered as a locksmith upon receipt of notice that the person has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for an offense for which he is required to register as a sex offender as enumerated in Section 23-3-430(C) or a violent crime as defined in Section 16-1-60. The court in which the person registered as a locksmith is convicted shall notify the Secretary of State within ten days after conviction.

Section 33-58-130. (A) A registration issued under this chapter must be renewed every two years on or before a date set by the Secretary of State upon the payment of a renewal fee of fifty dollars and submittal of an updated criminal background check.

(B) A registered locksmith who promptly renews his registration will receive an updated certificate noting the new two-year-period date and the initial registration date for the locksmith.

(C) If a registered locksmith fails to timely renew his registration, but the registration lapses for less than one year, then the Secretary of State, upon satisfactory explanation by the registered locksmith’s failure to renew, may approve the renewal for the appropriate two-year period and note the initial registration date on the certificate.

(D) If a registered locksmith fails to timely renew his registration, and the registration has lapsed for one year or more, then the applicant must reapply for registration. The initial registration date shall not be included on the registration, and the registered locksmith must utilize the new registration date in providing a customer with how long he has been a registered locksmith.

(E) Proceeds from registration and renewal fees shall be retained by the Secretary of State for the administration of this chapter.

Section 33-58-140. Registration is not required to perform any of the following:

(1) the service, install, repair, or rebuild of automotive locks by automotive service dealers if they do not hold themselves out to the public as locksmiths;

(2) the opening of a lock in an emergency situation by police or fire departments if they do not hold themselves out to the public as locksmiths;

(3) the duplication of keys or the sale of locks or other security accessories not prohibited from sale by merchant, retail, or hardware stores if they do not hold themselves out to the public as locksmiths;

(4) the installation or removal of complete locks or locking devices by members of the building trades when doing so in the course of residential or commercial new construction or remodeling if they do not hold themselves out to the public as locksmiths;

(5) the opening of automotive locks by employees of towing services or repossessors in the normal course of their duties if they do not hold themselves out to the public as locksmiths; additionally, this chapter does not prohibit employees of towing services from opening motor vehicles to be moved without towing if they use the work order form required by this chapter and if the towing service does not hold itself out to the public as a locksmith or locksmith agency by way of yellow page advertisement, through a sign at the facilities of the service, or by any other advertisement;

(6) the practice of locksmithing by a student in the course of study in programs approved by the Secretary of State if the student does not hold himself out to the public as a locksmith;

(7) the service, install, repair, or rebuild of locks by a lock manufacturer or anyone employed by a lock manufacturer if he does not hold himself out to the public as a locksmith;

(8) the provision of a product or service in the practice of locksmithing by a business licensed by the State as a private alarm contractor agency if the principal purpose of the services provided to a customer is not the practice of locksmithing and the business does not hold itself out to the public as a locksmith agency; or

(9) the service, install, or repair of locks for tenants by a maintenance employee of a property management company at a multifamily residential building if the maintenance employee does not hold himself out to the public as a locksmith.”

SECTION 2. The Secretary of State shall develop the documents necessary for a locksmith to register within six months of the effective date of this act.

SECTION 3. The Secretary of State may promulgate regulations to carry out the provisions of this chapter.

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

THOMAS C. ALEXANDER for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 42 TO TITLE 40 SO AS TO PROVIDE FOR THE LICENSURE OF LOCKSMITHS; TO DEFINE NECESSARY TERMINOLOGY; TO CREATE THE BOARD OF LOCKSMITHS AND TO PROVIDE FOR THE COMPOSITION, FUNCTION, AND DUTIES OF THE BOARD; TO REQUIRE APPLICANTS FOR LICENSURE TO SATISFY CERTAIN CRITERIA, COMPLETE WRITTEN TESTING REQUIREMENTS, AND SUBMIT TO FINGERPRINT‑BASED NATIONAL CRIMINAL BACKGROUND RECORDS CHECKS; AND TO REQUIRE LOCKSMITHS TO COMPLETE CERTAIN CONTINUING EDUCATION REQUIREMENTS TO MAINTAIN LICENSURE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 42

Locksmiths

Section 40‑42‑110. For purposes of this chapter:

(1) ‘Department’ means the Department of Labor, Licensing and Regulation.

(2) ‘Lock’ means a mechanical, electromechanical, electronic, or electromagnetic device or similar device, including peripheral hardware, that is designed to control access from one area to another or that is designed to control the use of a device. These devices if operated by electrical current shall include both alternating current and direct current low voltage.

(3) ‘Locksmith’ means a person who directly or indirectly engages in the business of rekeying, installing, repairing, opening, or modifying locks or who originates keys for locks.

Section 40‑42‑120. (A) There is created the South Carolina State Board of Locksmiths composed of seven members appointed by the Governor, five of whom must be licensed locksmiths pursuant to this chapter, and two public members who are not locksmiths or do not have a pecuniary interests in an entity engaged in the locksmith practices.

(B) The term of a member is for four years and until his successor is appointed and qualified. A member of the board may be reappointed for one term consecutive to his initial term, regardless of whether the first term was a full term or an appointment to fulfill the remainder of an unexpired term of another member. A member who serves two consecutive terms may not serve as a member of the board for a period of four years after this second term expires.

(C) A vacancy on the board is filled in the same manner as the original appointment for the unexpired portion of the term.

(D) The board is responsible for examining applicants for certification as locksmiths and investigating complaints and prosecuting violations of this chapter.

(E) The board may promulgate regulations to carry out the provisions of this chapter.

Section 40‑42‑130. (A) In order to safeguard public welfare, health, and property and to promote public good, a person seeking to provide or offer to provide locksmith services to the public must submit to the board evidence that he is qualified to provide locksmith services and must obtain licensure as a locksmith as provided in this chapter. It is unlawful for a person to provide or offer to provide locksmith services to the public or to use the term or title ‘locksmith’ unless licensed under the provisions of this chapter.

(B) To be qualified for licensure as a locksmith in this State, an applicant must:

(1) be at least eighteen years of age;

(2) pass the written or oral examination provided in Section 40‑42‑140;

(3) comply with insurance and bonding requirements established by the board through regulation;

(4) pay the application fee established by the board through regulation;

(5) meet other qualifications established by the board through regulation; and

(6) submit to a state and national criminal record background check.

(C) An applicant for licensure shall submit his application on forms prescribed by the department and pay applicable registration fee.

(D) An applicant for licensure shall submit to a state and national criminal background check at his expense. The department may not issue a license to a person who:

(1) is a registered sex offender or is convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for an offense for which he is required to register as a sex offender as enumerated in Section 23‑3‑430(C); or

(2) has had a prior license to do business as a locksmith revoked for fraud or misrepresentation.

(E) Upon issuing the license, the department also shall issue a license number and a photographic identification card indicating the name, contact information, status as a licensed locksmith, and license number. A licensee shall, on demand, provide this identification card for inspection at the request of any person to whom he seeks to provide locksmith services.

Section 40‑42‑140. The board shall adopt a written or oral examination that applicants for licensure must pass to demonstrate a mastery of the skills, best safety practices, and best ethical business practice concepts required of a locksmith. If the board elects to use an examination prepared by a national entity, a section specific to South Carolina must be developed by the board and included in the examination. The applicant may choose between the written or oral examination.

Section 40‑42‑150. (A) A license issued under this chapter must be renewed every two years on or before a date set by the department upon the payment of a renewal fee established by the board through regulation.

(B) A licensee who allows his license to lapse for less than one year by failing to renew the license in accordance with this section may be reinstated by the department upon satisfactory explanation by the licensee of failure to renew the license and upon payment of a reinstatement fee and the current renewal fee, as established by the board through regulation.

(C) If a license has lapsed for more than two years, the applicant must reapply for licensure. A person who provides locksmith services in this State during the time that his license is lapsed is engaging in unlicensed practice and is subject to penalties provided in this chapter.

Section 40‑42‑160. A license is not required to perform any of the following:

(1) servicing, installing, repairing, or rebuilding automotive locks by automotive service dealers if they do not hold themselves out to the public as locksmiths;

(2) police or fire departments from opening a lock in an emergency situation if they do not hold themselves out to the public as locksmiths;

(3) a merchant, retail, or hardware store from duplicating keys or from selling locks or other security accessories not prohibited from sale by the State if they do not hold themselves out to the public as locksmiths;

(4) the installation or removal of complete locks or locking devices by members of the building trades when doing so in the course of residential or commercial new construction or remodeling if they do not hold themselves out to the public as locksmiths;

(5) the employees of towing services or repossessors from opening automotive locks in the normal course of their duties if they do not hold themselves out to the public as locksmiths; additionally, this chapter does not prohibit employees of towing services from opening motor vehicles to be moved without towing if they use the work order form required by this chapter and if the towing service does not hold itself out to the public as a locksmith or locksmith agency by way of yellow page advertisement, through a sign at the facilities of the service, or by any other advertisement;

(6) the practice of locksmithing by a student in the course of study in programs approved by the department if the student does not hold himself out to the public as a locksmith;

(7) servicing, installing, repairing, or rebuilding locks by a lock manufacturer or anyone employed by a lock manufacturer if he does not hold himself out to the public as a locksmith;

(8) the provision of a product or service in the practice of locksmithing by a business licensed by the State as a private alarm contractor agency if the principal purpose of the services provided to a customer is not the practice of locksmithing and the business does not hold itself out to the public as a locksmith agency; or

(9) a maintenance employee of a property management company at a multifamily residential building from servicing, installing, or repairing locks for tenants if the maintenance employee does not hold himself out to the public as a locksmith.”

SECTION 2. The initial professional members of the South Carolina Board of Locksmiths will be appointed and qualified before the licensure process exists and are consequently not required to be licensed as professional members as otherwise required by this act for professional members of the board, but instead must have at least five years of experience as locksmiths in this State and meet the other criteria of the act and for public officials in this State. Within six months after establishing the written test for licensure under this act, an initial professional member successfully must complete the test and obtain licensure under this act or his seat will be vacated.

SECTION 3. This act takes effect upon approval by the Governor.

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