S T A T E O F N E W Y O R K

985

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PHEFFER, WEISENBERG, MAISEL, MARKEY, JAFFEE, CASTRO, ROSENTHAL, MILLMAN, TITUS -- Multi-Sponsored by -- M. of A. BOYLAND, COOK, DINOWITZ, GALEF, GOTTFRIED, HOOPER, McENENY, MENG, PERRY, TITONE -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the general business law, in relation to enacting the locksmith licensing act of 2011

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings. Locksmiths operate in the public trust to secure and protect property and persons and have the knowledge and tools to bypass or neutralize security devices. Existing laws and regulations do not adequately protect citizens from the unscrupulous use and abuse of the tools and knowledge of the locksmithing profession by the untrained person or from those who have criminal intent. In addition, disreputable locksmiths and those who falsely represent themselves to be locksmiths have a negative effect on the business of honest, hard-working locksmiths by generating public ill will towards the profession as a whole. In order to protect both reputable locksmiths and the public of this state from the abuse and misuse of locksmithing supplies, manuals, or equipment, locksmiths should be licensed and regulated by this state.

S 2. The general business law is amended by adding a new article 6-E to read as follows:

ARTICLE 6-E
THE LOCKSMITH LICENSING ACT OF 2011

SECTION 69-AA. SHORT TITLE.
69-BB. DEFINITIONS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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69-CC. LOCKSMITH ADVISORY BOARD.
69-DD. PROMULGATION OF REGULATIONS AND STANDARDS.
69-EE. PROHIBITED ACTIVITIES.
69-FF. CRIMINAL PENALTY.
69-GG. CIVIL PENALTY.
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69-II. QUALIFICATIONS OF APPLICANTS.
69-JJ. EMPLOYEE REQUIREMENTS.
69-KK. EXPIRATION AND RENEWAL.
69-LL. LIST OF LOCKSMITHS.
69-MM. INSURANCE.
69-NN. WORK ORDERS.
69-OO. EXCLUSIONS.
69-PP. APPLICABILITY.

S 69-AA. SHORT TITLE. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS "THE LOCKSMITH LICENSING ACT OF 2011".

S 69-BB. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:

1. "BOARD" MEANS THE LOCKSMITH ADVISORY BOARD.

2. "CERTIFICATE" MEANS A DOCUMENT ISSUED BY THE DEPARTMENT AS PROOF THAT A LICENSE OR PERMIT HAS BEEN GRANTED.

3. "CERTIFICATION" MEANS THE PROCESS WHEREBY THE DEPARTMENT OR ANY REGULATORY BOARD ISSUES A CERTIFICATE ON BEHALF OF THIS STATE TO A PERSON SIGNIFYING THAT HE OR SHE POSSESSES THE CHARACTER AND MINIMUM SKILLS TO ENGAGE PROPERLY IN THE PROFESSION OF LOCKSMITHING.

4. "CODEBOOK" MEANS A COMPILATION, IN ANY FORM, OF KEY CODES.

5. "COMMISSIONER" MEANS THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES.

6. "DEPARTMENT" MEANS THE DEPARTMENT OF STATE.

7. "DIVISION" MEANS THE DIVISION OF CRIMINAL JUSTICE SERVICES.

8. "EMERGENCY" MEANS A LIFE-THREATENING SITUATION INVOLVING A PERSON.

9. "INSPECTION" MEANS A METHOD OF REGULATION WHEREBY A STATE AGENCY PERIODICALLY EXAMINES THE ACTIVITIES AND PREMISES OF PRACTITIONERS OF AN OCCUPATION OR PROFESSION TO ASCERTAIN IF THE PRACTITIONER IS CARRYING OUT HIS OR HER PROFESSION OR OCCUPATION IN A MANNER CONSISTENT WITH THE PUBLIC HEALTH, SAFETY AND WELFARE.

10. "KEY BLANK" MEANS A KEY THAT HAS NOT BEEN ALTERED OR CUT AND DOES NOT INCLUDE DEPTH KEYS.

11. "KEY DUPLICATION MACHINE" MEANS ANY DEVICE WHICH IS CAPABLE OF COPYING OR REPRODUCING KEYS.

12. "LICENSURE" MEANS A METHOD OF REGULATION WHEREBY THIS STATE, THROUGH THE ISSUANCE OF A LICENSE, AUTHORIZES A PERSON POSSESSING THE CHARACTER AND MINIMUM SKILLS TO ENGAGE IN THE PRACTICE OF THE LOCKSMITH PROFESSION OR OCCUPATION, WHICH IS UNLAWFUL TO PRACTICE WITHOUT A LICENSE.

13. "LOCKSMITH" MEANS A NATURAL PERSON WHO PERFORMS LOCKSMITH SERVICES AND ACCESS CONTROL SERVICES TO THE PUBLIC. "LOCKSMITH" DOES NOT INCLUDE ANY PERSON WHOSE ACTIVITIES ARE LIMITED TO MAKING A DUPLICATE KEY FROM AN EXISTING KEY OR WHOSE DUTIES ARE PRIMARILY CLERICAL OR FIDUCIARY.

14. "LOCKSMITHING TOOL" MEANS ANY TOOL THAT IS DESIGNED, OR INTENDED BY THE USER TO BE USED, TO OPEN A MECHANICAL OR ELECTRICAL LOCKING DEVICE BY A MEANS OTHER THAN THAT WHICH IS INTENDED BY THE MANUFACTURER OF SUCH DEVICE FOR NORMAL OPERATION.

15. "LOCKSMITH LICENSE" MEANS A LICENSE GRANTED TO A LOCKSMITH PURSUANT TO THIS ARTICLE.

16. "LOCKSMITH SERVICES" MEANS:

(A) SERVICING OR INSTALLING;
(B) REPAIRING, REBUILDING, REKEYING, REPINNING, SERVICING, ADJUSTING OR INSTALLING LOCKS, MECHANICAL OR ELECTRONIC SECURITY DEVICES, SAFES, VAULTS, OR SAFE DEPOSIT BOXES; AND
(C) OPERATING A LOCK, MECHANICAL OR ELECTRONIC SECURITY DEVICE, SAFE, VAULT, OR SAFE DEPOSIT BOX BY A MEANS OTHER THAN THOSE INTENDED BY THE MANUFACTURER OF SUCH DEVICES.

17. "MASTER KEY SYSTEM" MEANS ANY SYSTEM IN WHICH A LOCK IS REKEYED SO THAT THE LOCK CAN BE OPERATED BY ITS OWN INDIVIDUAL KEY AND CAN ALSO BE OPERATED BY A KEY THAT CAN OPERATE OTHER LOCKS IF THE OTHER LOCKS CANNOT BE OPERATED WITH THE LOCK'S INDIVIDUAL KEY.

18. "ORGANIZATION" MEANS ANY ENTITY OTHER THAN A NATURAL PERSON, INCLUDING BUT NOT LIMITED TO, A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, OR ASSOCIATION.

19. "PIN KIT" MEANS A CONTAINER THAT HOLDS ONLY THE FOLLOWING LOCK PARTS AND MATERIALS:
(A) BOTTOM PINS;
(B) TOP PINS (NOT INCLUDING MASTER PINS);
(C) SPRINGS;
(D) PLUG FOLLOWER;
(E) PROPRIETARY TOOLS, PROVIDED BY A LOCK MANUFACTURER, DESIGNED FOR THE PURPOSE OF REKEYING A LOCK.

20. "RECOMBINATION" MEANS CHANGING THE COMBINATION OF ANY COMBINATION-ACTUATED LOCK.

21. "SAFE-OPENING TOOL" MEANS ANY TOOL THAT IS DESIGNED, OR INTENDED BY THE USER TO BE USED, TO OPEN A SAFE, SAFE DEPOSIT BOX OR SIMILAR OBJECT BY MEANS OTHER THAN THAT WHICH IS INTENDED BY THE MANUFACTURER OF SUCH SAFE, VAULT, SAFE DEPOSIT BOX OR SIMILAR OBJECT FOR NORMAL OPENING.

22. "SECRETARY" MEANS THE SECRETARY OF STATE.

S 69-CC. LOCKSMITH ADVISORY BOARD. 1. THERE IS HEREBY CREATED WITHIN THE DEPARTMENT THE "LOCKSMITH ADVISORY BOARD," HEREINAFTER REFERRED TO AS THE "BOARD". SUCH BOARD SHALL CONSIST OF SEVEN MEMBERS: THREE LOCKSMITHS, ONE LAW ENFORCEMENT REPRESENTATIVE, AND THREE "CITIZEN MEMBERS". THE LAW ENFORCEMENT REPRESENTATIVE AND ONE EACH OF THE LOCKSMITHS AND OF THE CITIZEN MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, ONE EACH OF THE LOCKSMITHS AND OF THE CITIZEN MEMBERS SHALL BE APPOINTED BY THE GOVERNOR UPON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY, ONE EACH OF THE LOCKSMITHS AND OF THE CITIZEN MEMBERS SHALL BE APPOINTED BY THE GOVERNOR UPON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE. OF THE OCCUPATIONAL MEMBERS, ALL SHALL HAVE AT LEAST FIVE YEARS EXPERIENCE IN THE LOCKSMITH INDUSTRY AND BE CURRENTLY ENGAGED IN THAT INDUSTRY. THE APPOINTEES SHALL ALL RESIDE IN THIS STATE AND REPRESENT THE STATE'S RACIAL, ETHNIC, GENDER, GEOGRAPHIC, AND ECONOMIC DIVERSITY TO THE GREATEST EXTENT POSSIBLE.

2. A "CITIZEN MEMBER" OF THE BOARD SHALL BE A PERSON WHO: (A) IS NOT BY TRAINING OR EXPERIENCE A LOCKSMITH, (B) IS NOT A SPOUSE, PARENT, CHILD, OR SIBLING OF A LOCKSMITH, AND (C) HAS NO DIRECT OR INDIRECT FINANCIAL INTEREST, EXCEPT AS A CONSUMER, IN THE LOCKSMITH PROFESSION.

3. AT ITS FIRST MEETING, THE BOARD SHALL ELECT A CHAIRPERSON BY A MAJORITY VOTE. STAFF SERVICES, INCLUDING RECORDING OF BOARD PROCEEDINGS, SHALL BE PERFORMED BY PERSONNEL OF THE DEPARTMENT.

4. THE BOARD SHALL ADVISE THE DEPARTMENT AND THE DIVISION IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE AND SHALL RECOMMEND TO THE SECRETARY AND COMMISSIONER REGULATIONS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS ARTICLE. ONCE THE SECRETARY DETERMINES THAT THE FINAL REGULATIONS HAVE BEEN PROMULGATED, THE BOARD SHALL BE DISSOLVED.

5. THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION EXCEPT THAT EACH OF THEM SHALL BE ALLOWED THE NECESSARY AND ACTUAL EXPENSES WHICH HE OR SHE SHALL INCUR IN THE PERFORMANCE OF HIS OR HER DUTIES.

6. SHOULD ANY SEAT ON THE BOARD BECOME VACANT PRIOR TO THE BOARD'S DISSOLUTION, THE GOVERNOR SHALL MAKE AN APPOINTMENT TO FILL THAT VACANCY. IF THE BOARD MEMBER WHO PREVIOUSLY FILLED THE VACANT SEAT HAD BEEN APPOINTED BASED UPON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY, THEN THE SPEAKER MUST MAKE ANOTHER RECOMMENDATION TO THE GOVERNOR. IF THE BOARD MEMBER WHO PREVIOUSLY FILLED THE VACANT SEAT HAD BEEN APPOINTED BASED UPON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE, THEN THE TEMPORARY PRESIDENT MUST MAKE ANOTHER RECOMMENDATION TO THE GOVERNOR. IF A LOCKSMITH PREVIOUSLY FILLED THE VACANT SEAT, THE NEW BOARD MEMBER MUST ALSO BE A LOCKSMITH. IF A LAW ENFORCEMENT REPRESENTATIVE PREVIOUSLY FILLED THE VACANT SEAT, THE NEW BOARD MEMBER MUST ALSO BE A LAW ENFORCEMENT REPRESENTATIVE. IF A CITIZEN MEMBER PREVIOUSLY FILLED THE VACANT SEAT, THE NEW BOARD MEMBER MUST ALSO BE A CITIZEN MEMBER.

7. IF THE GOVERNOR FAILS TO MAKE THE NECESSARY APPOINTMENTS TO THE BOARD, OR IF THE SPEAKER OF THE ASSEMBLY OR THE TEMPORARY PRESIDENT OF THE SENATE SHALL FAIL TO MAKE RECOMMENDATIONS TO THE GOVERNOR FOR APPOINTMENT TO THE BOARD, THE CARRYING OUT OF THE REST OF THIS ARTICLE SHALL NOT BE IMPEDED.

S 69-DD. PROMULGATION OF REGULATIONS AND STANDARDS. 1. THE DEPARTMENT SHALL PROMULGATE REGULATIONS AND STANDARDS FOR THE TRAINING AND LICENSING OF LOCKSMITHS. THE DEPARTMENT SHALL EXAMINE AND LICENSE LOCKSMITHS AND MAY ESTABLISH CLASSIFICATIONS OF TRAINING AND LICENSING.

2. LOCKSMITH COMPETENCY STANDARDS AND ANY CHANGES THERETO SHALL BE ESTABLISHED BY DEPARTMENT REGULATION AFTER A PUBLIC HEARING.

3. THE DEPARTMENT IS AUTHORIZED TO EVALUATE THE COMPETENCY OF APPLICANTS FOR LOCKSMITH LICENSES. THE DEPARTMENT MAY EITHER DEVELOP AND ADMINISTER AN EXAMINATION TO EVALUATE COMPETENCY, OR RELY ON AN EXAMINATION DEVELOPED AND ADMINISTERED BY AN ACCREDITED PROFESSIONAL LOCKSMITH ASSOCIATION.

4. THE DEPARTMENT MAY WAIVE EXAMINATION REQUIREMENTS FOR ANY PERSON WHO HOLDS A VALID LOCKSMITH LICENSE IN ANOTHER STATE WITH WHICH RECIPROCITY HAS BEEN ESTABLISHED BY THE DEPARTMENT.

5. ANY PERSON APPLYING FOR A LICENSE UNDER THIS ACT WHO DOES NOT OTHERWISE QUALIFY SHALL SERVE AN APPRENTICESHIP UNDER A LICENSED LOCKSMITH OR UNDER THE DEPARTMENT FOR A PERIOD OF TWO YEARS AND SHALL:

(A) COMPLETE THIRTY-TWO HOURS OF CONTINUING EDUCATION PER YEAR OF DEPARTMENT-APPROVED CLASSES; AND

(B) IDENTIFY HIMSELF OR HERSELF AS AN "APPRENTICE LOCKSMITH" IN ALL ADVERTISING.

S 69-EE. PROHIBITED ACTIVITIES. 1. NO PERSON SHALL ACT AS, OR OFFER TO ACT AS, A LOCKSMITH UNLESS HE OR SHE HAS A LOCKSMITH LICENSE WHICH HAS NOT EXPIRED OR BEEN REVOKED OR SUSPENDED.

2. NO ORGANIZATION SHALL PROVIDE OR OFFER THE SERVICES OF A LOCKSMITH UNLESS SUCH SERVICES ARE, OR CAN BE, PROVIDED BY AN EMPLOYEE OF SUCH ORGANIZATION WHO HAS A LOCKSMITH LICENSE WHICH HAS NOT EXPIRED OR BEEN REVOKED OR SUSPENDED.

3. IT SHALL BE UNLAWFUL FOR ANY PERSON NOT LICENSED UNDER THE PROVISIONS OF THIS ARTICLE TO ADVERTISE THAT HE OR SHE IS IN THE LOCKSMITH BUSINESS OR TO HOLD HIMSELF OR HERSELF OUT TO THE PUBLIC AS A LOCKSMITH.

4. NOTHING IN THIS SECTION SHALL PROHIBIT THE EMERGENCY OPENING SERVICES BY MEMBERS OF LAW ENFORCEMENT, FIRE DEPARTMENTS, OR OTHER

GOVERNMENT AGENCIES OR EMERGENCY PERSONNEL IN THEIR OFFICIAL LINE OF DUTY.

5. NO APPRENTICE LOCKSMITH MAY HAVE A REGISTERED OR APPRENTICE LOCKSMITH WORKING UNDER HIS OR HER SUPERVISION.

6. IT SHALL BE UNLAWFUL FOR ANY PERSON OR ORGANIZATION TO ENGAGE IN ANY OF THE FOLLOWING ACTS:

(A) MAKING USE OF ANY DESIGNATION PROVIDED BY STATUTE OR REGULATION TO DENOTE A STANDARD OF PROFESSIONAL OR OCCUPATIONAL COMPETENCE WITHOUT BEING DULY CERTIFIED OR LICENSED;

(B) MAKING USE OF ANY TITLE, WORDS, LETTERS, OR ABBREVIATIONS WHICH MAY REASONABLY BE CONFUSED WITH A DESIGNATION PROVIDED BY STATUTE OR REGULATION TO DENOTE A STANDARD OF PROFESSIONAL OR OCCUPATIONAL COMPETENCE WITHOUT BEING DULY CERTIFIED OR LICENSED;

(C) PROVIDING MATERIAL MISREPRESENTING FACTS IN AN APPLICATION FOR LICENSURE, CERTIFICATION, OR REGISTRATION; AND

(D) WILLFULLY REFUSING TO FURNISH THE DEPARTMENT INFORMATION OR RECORDS REQUIRED OR REQUESTED PURSUANT TO STATUTE OR REGULATION.

S 69-FF. CRIMINAL PENALTY. ANY PERSON WHO WILLFULLY ENGAGES IN ANY UNLAWFUL ACT ENUMERATED IN SECTION SIXTY-NINE-EE OF THIS ARTICLE SHALL BE GUILTY OF A MISDEMEANOR. ANY SECOND OR SUBSEQUENT VIOLATION SHALL CONSTITUTE A CLASS E FELONY.

S 69-GG. CIVIL PENALTY. 1. THE DEPARTMENT MAY INSTITUTE PROCEEDINGS IN EQUITY TO ENJOIN ANY PERSON, PARTNERSHIP, CORPORATION, OR ANY OTHER ENTITY FROM ENGAGING IN ANY UNLAWFUL ACT ENUMERATED IN SECTION SIXTY-NINE-EE OF THIS ARTICLE. SUCH PROCEEDINGS SHALL BE BROUGHT IN THE NAME OF THIS STATE BY THE DEPARTMENT IN THE CIRCUIT COURT OF THE CITY OR COUNTY IN WHICH THE UNLAWFUL ACT OCCURRED OR IN WHICH THE DEFENDANT RESIDES.

2. ANY PERSON LICENSED BY THE DEPARTMENT WHO KNOWINGLY VIOLATES ANY STATUTE OR REGULATION PERTAINING TO THIS ARTICLE WHO IS NOT CRIMINALLY PROSECUTED SHALL BE SUBJECT TO THE MONETARY PENALTY PROVIDED IN THIS SECTION. IF THE DEPARTMENT DETERMINES THAT A RESPONDENT IS GUILTY OF THE VIOLATION COMPLAINED OF, THE DEPARTMENT SHALL DETERMINE THE AMOUNT OF THE MONETARY PENALTY FOR THE VIOLATION, WHICH SHALL NOT EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION.

3. AFTER A FORMAL FACT-FINDING, WHEREIN A SANCTION IS IMPOSED TO FINE, SUSPEND, REVOKE, OR DENY RENEWAL OF LICENSE, THE DEPARTMENT MAY ASSESS THE HOLDER THEREOF THE COST OF CONDUCTING SUCH A FACT-FINDING WHEN THE DEPARTMENT HAS FINAL AUTHORITY TO GRANT LICENSE, CERTIFICATE OR REGISTRATION, UNLESS THE DEPARTMENT DETERMINES THAT THE OFFENSE IS INADVERTENT OR DONE IN A GOOD FAITH BELIEF THAT SUCH ACT DID NOT VIOLATE A STATUTE OR REGULATION. THE COST SHALL BE LIMITED TO (A) THE REASONABLE HOURLY RATE FOR THE HEARING OFFICER, AND (B) THE ACTUAL COST OF RECORDING THE PROCEEDINGS.

S 69-HH. LICENSURE. 1. THE SECRETARY OR HIS OR HER DESIGNEE SHALL BE AUTHORIZED TO ISSUE LOCKSMITH LICENSES TO ALL QUALIFIED INDIVIDUALS IN ACCORDANCE WITH REGULATIONS ESTABLISHED BY THE DEPARTMENT.

2. EFFECTIVE NOVEMBER FIRST, TWO THOUSAND TWELVE, NO LOCKSMITH SHALL DO BUSINESS IN THIS STATE WITHOUT HAVING OBTAINED THE PROPER LOCKSMITH LICENSE FROM THE DEPARTMENT. THE LICENSE SHALL NOT BE TRANSFERRED OR ASSIGNED AND IS VALID ONLY WITH RESPECT TO THE PERSON TO WHOM IT IS ISSUED. NO LICENSE SHALL BE GRANTED IF THE APPLICANT HAS AN UNPARDONED FELONY IN HIS OR HER CRIMINAL RECORD OR HAD ANY PRIOR LICENSE TO DO BUSINESS REVOKED FOR FRAUD, MISREPRESENTATION, OR ANY OTHER ACT THAT WOULD CONSTITUTE A VIOLATION OF THIS SECTION. A PERSON SHALL NOT BE REFUSED A LICENSE SOLELY BECAUSE OF A PRIOR CRIMINAL CONVICTION, UNLESS

THE CRIMINAL CONVICTION DIRECTLY RELATES TO THE PROFESSION OF LOCKSMITHING. HOWEVER, THE DEPARTMENT SHALL HAVE THE AUTHORITY TO REFUSE A LICENSE IF, BASED ON ALL THE INFORMATION AVAILABLE, INCLUDING THE APPLICANT'S RECORD OF PRIOR CONVICTIONS, IT FINDS THAT THE APPLICANT IS UNFIT OR UNSUITED TO ENGAGE IN THE PROFESSION OF LOCKSMITHING.

3. THE TERMS OF EACH LICENSE SHALL BE NO LONGER THAN TWO YEARS, WITH ALL LICENSES EXPIRING ON THEIR ANNIVERSARY UNLESS RENEWED OR REVOKED.

4. ANY INDIVIDUAL SHALL HAVE AVAILABLE THE PHOTO IDENTIFICATION CARD AT ALL TIMES WHEN PROVIDING LOCKSMITHING SERVICES.

5. AN ORGANIZATION SHALL DISPLAY AT ITS NORMAL PLACE OF BUSINESS AND IN A MANNER EASILY READABLE BY THE GENERAL PUBLIC A CERTIFICATE FOR EACH LICENSED LOCKSMITH EMPLOYED BY THE ORGANIZATION. EACH CERTIFICATE SHALL CONTAIN THE LICENSEE'S NAME AND LICENSE NUMBER.

6. ANY INDIVIDUAL LICENSED OR REGISTERED UNDER THIS ARTICLE MUST SHOW IN ALL ADVERTISING HIS OR HER LICENSE NUMBER.

7. ANY APPLICANT FOR LICENSURE WHO PROVIDES DOCUMENTATION THAT HE OR SHE HAS PRACTICED AS A LOCKSMITH FOR AT LEAST TWO CONSECUTIVE YEARS IMMEDIATELY PRECEDING HIS OR HER DATE OF APPLICATION AND IS STILL ENGAGED IN THE TRADE SHALL BE EXEMPT FROM THE EXAMINATION REQUIREMENTS CONTAINED IN THIS ARTICLE AND PROMULGATED BY THE DEPARTMENT IF HE OR SHE APPLIES TO THE DEPARTMENT AND SUBMITS RELEVANT DOCUMENTATION PRIOR TO NOVEMBER FIRST, TWO THOUSAND TWELVE. THE REQUIREMENTS FOR SUCH AN APPLICATION SHALL BE DETERMINED BY THE DEPARTMENT. RELEVANT DOCUMENTATION SHALL BE DETERMINED BY THE DEPARTMENT AND CAN INCLUDE, BUT IS NOT LIMITED TO, COMPLETION CERTIFICATES FROM AUTHORIZED CONTINUING LOCKSMITH EDUCATION COURSES, MEMBERSHIP IN AN ACCREDITED PROFESSIONAL LOCKSMITH ASSOCIATION, TEACHING LOCKSMITH CONTINUING EDUCATION COURSES, AND ARTICLES WRITTEN BY THE LOCKSMITH THAT HAVE BEEN PUBLISHED IN PEER-REVIEWED JOURNALS. THIS IS NOT INTENDED TO PROHIBIT A PRACTICING LOCKSMITH FROM TAKING THE EXAM SHOULD HE OR SHE WISH TO DO SO.

8. A NONRESIDENT OF THIS STATE MAY BE LICENSED AS A LOCKSMITH BY MEETING ONE OF THE FOLLOWING REQUIREMENTS:

(A) HE OR SHE CONFORMS TO THE PROVISIONS OF THIS ARTICLE AND THE REGULATIONS OF THE DEPARTMENT; OR

(B) HE OR SHE HOLDS A VALID LOCKSMITH LICENSE IN ANOTHER STATE WITH WHICH RECIPROCITY HAS BEEN ESTABLISHED BY THE DEPARTMENT.

NONRESIDENT APPLICANTS SHALL ALSO FILE WITH THE DEPARTMENT AN IRREVOCABLE CONSENT THAT SERVICE OF PROCESS UPON THE SECRETARY IS AS VALID AND BINDING AS SERVICE OF PROCESS UPON THE APPLICANT. THE SECRETARY OR HIS OR HER DESIGNEE SHALL NOTIFY OR CAUSE TO BE NOTIFIED BY CERTIFIED MAIL THE NONRESIDENT LICENSEE NAMED IN A SERVICE AT THE LICENSEE'S ADDRESS OF RECORD.

S 69-II. QUALIFICATIONS OF APPLICANTS. 1. AN APPLICANT FOR A LOCKSMITH LICENSE SHALL:

(A) BE AT LEAST EIGHTEEN YEARS OF AGE;

(B) COMPLY WITH THE COMPETENCY REQUIREMENTS AS ESTABLISHED BY THE DEPARTMENT;

(C) PAY A LICENSE FEE AS ESTABLISHED BY DEPARTMENT REGULATIONS;

(D) COMPLY WITH THE INSURANCE REQUIREMENTS OUTLINED IN SECTION SIXTY-NINE-MM OF THIS ARTICLE; AND

(E) COMPLETE ALL APPLICATION REQUIREMENTS PURSUANT TO DEPARTMENT REGULATIONS.

2. TWO COMPLETE SETS OF FINGERPRINTS THAT ARE VERIFIED TO BE THOSE OF THE APPLICANT ALONG WITH A FINGERPRINT FEE, IN SUCH AMOUNT AS SHALL BE DETERMINED BY THE DEPARTMENT, FOR THE COST OF THE DIVISION'S FULL SEARCH AND RETAIN PROCEDURES. BEFORE APPROVING AN APPLICATION, IT SHALL BE THE

DUTY OF THE DEPARTMENT TO FORWARD ONE COPY OF SUCH FINGERPRINTS TO THE DIVISION. UPON RECEIPT OF SUCH FINGERPRINTS, THE DIVISION SHALL, PURSUANT TO ITS FULL SEARCH AND RETAIN PROCEDURES, FORWARD TO THE DEPARTMENT A REPORT WITH RESPECT TO THE APPLICANT'S PREVIOUS CRIMINAL HISTORY, IF ANY, OR A STATEMENT THAT THE APPLICANT HAS NO PREVIOUS CRIMINAL HISTORY. IF ADDITIONAL COPIES OF FINGERPRINTS ARE REQUIRED, THE APPLICANT SHALL FURNISH THEM UPON REQUEST. IF AN APPLICANT'S FINGERPRINT CARDS ARE RETURNED TO THE DEPARTMENT AS UNCLASSIFIED BY THE DIVISION, THE AGENCY HAS THIRTY DAYS AFTER NOTIFICATION IS SENT BY THE DEPARTMENT TO RESUBMIT SUCH FINGERPRINTS TAKEN BY A DIFFERENT TECHNICIAN.

3. THE FORM OF APPLICATION, CERTIFICATE, PHOTO IDENTIFICATION CARD, AND METHOD TO OBTAIN AND RENEW PHOTOGRAPHS SHALL BE ESTABLISHED BY THE DEPARTMENT REGULATION AND ADMINISTERED BY THE SECRETARY OR HIS OR HER DESIGNEE.

S 69-JJ. EMPLOYEE REQUIREMENTS. 1. ALL EMPLOYEES OF A LOCKSMITH WHO PERFORM LOCKSMITHING SERVICES AS DEFINED BY SECTION SIXTY-NINE-BB OF THIS ARTICLE SHALL HOLD A VALID LOCKSMITH LICENSE ISSUED BY THE DEPARTMENT. THE HOLDER OF A LOCKSMITH LICENSE ISSUED UNDER THIS ARTICLE MAY EMPLOY IN THE CONDUCT OF THE ORGANIZATION'S BUSINESS EMPLOYEES PURSUANT TO THIS SECTION.

2. NO PERSON SHALL BE A REGISTERED EMPLOYEE OF A LICENSED LOCKSMITH WHO:

(A) HAS BEEN DETERMINED BY THE DEPARTMENT TO BE UNFIT BY REASON OF CONVICTION OF A FELONY OR MISDEMEANOR OFFENSE IN THIS OR IN ANOTHER STATE OR CONVICTED OF ANY CRIME RELATED TO THE PRACTICE OF LOCKSMITHING. THE DEPARTMENT SHALL PROMULGATE RULES FOR PROCEDURES BY WHICH THOSE CIRCUMSTANCES SHALL BE DETERMINED AND THAT AFFORD THE APPLICANT DUE PROCESS OF LAW;

(B) HAS HAD A LOCKSMITH LICENSE REFUSED, DENIED, SUSPENDED, OR REVOKED UNDER THIS ARTICLE; OR

(C) HAS OTHERWISE VIOLATED ANY PROVISION OF THIS ARTICLE.

3. EACH LICENSED LOCKSMITH SHALL MAINTAIN A RECORD OF EACH LOCKSMITH IN HIS OR HER EMPLOY. IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY LAW, THE RECORD SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) THE EMPLOYEE'S LICENSE NUMBER;

(B) A RECORD OF ALL DEPARTMENT-APPROVED CONTINUING EDUCATION CLASSES TAKEN OR TAUGHT BY THE LOCKSMITH TOGETHER WITH THE DATES. EACH EMPLOYEE MUST TAKE A MINIMUM OF SIXTEEN HOURS OF CONTINUING EDUCATION PER YEAR; AND

(C) A RECORD OF ANY ARTICLES RELATED TO LOCKSMITHING WRITTEN BY THE LOCKSMITH THAT WERE PUBLISHED IN PEER-REVIEWED JOURNALS.

4. THE LOCKSMITH WILL MAINTAIN A SEPARATE ROSTER OF THE NAMES OF ALL EMPLOYEES HIRED AND ALL EMPLOYEES WHO LEFT THE LOCKSMITH'S EMPLOY FOR ANY REASON WITHIN THE PREVIOUS MONTH AND SUBMIT THE ROSTER TO THE DEPARTMENT ON OR BEFORE THE TENTH OF THE MONTH. THIS ROSTER SHALL INCLUDE EMPLOYEES WHO ARE LICENSED LOCKSMITHS AND THOSE WHO ARE NOT. FOR EACH EMPLOYEE, THE ROSTER SHALL INCLUDE THE EMPLOYEE'S NAME, ADDRESS, DATE OF BIRTH, JOB TITLE, DATE OF HIRE, AND, IF APPLICABLE, THE EMPLOYEE'S LOCKSMITH LICENSE NUMBER. ROSTERS ARE TO BE MAINTAINED BY THE LOCKSMITH FOR A PERIOD OF AT LEAST TWENTY-FOUR MONTHS. THE LOCKSMITH IS NOT REQUIRED TO SUBMIT A ROSTER FOR ANY MONTH DURING WHICH THERE WERE NO EMPLOYMENT CHANGES. FAILURE TO MAINTAIN AND SUBMIT THE SPECIFIED ROSTER SHALL RESULT IN A FINE IN AN AMOUNT UP TO FIVE HUNDRED DOLLARS OR OTHER DISCIPLINARY ACTION BEING IMPOSED AGAINST THE LOCKSMITH. THE DEPARTMENT MAY BY RULE PRESCRIBE FURTHER RECORD REQUIREMENTS.

5. A DULY AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT SHALL BE ALLOWED COMPLETE ACCESS TO ALL RECORDS TO BE KEPT UNDER THIS SECTION UPON THREE DAYS ADVANCE NOTICE IN WRITING PROVIDED TO THE LICENSED LOCKSMITH.

6. ANY LICENSED LOCKSMITH WHO KNOWINGLY HIRES AND/OR MAINTAINS AN EMPLOYEE WHO IS IN VIOLATION OF THIS SECTION SHALL HAVE HIS OR HER LICENSE TEMPORARILY SUSPENDED PENDING FURTHER ACTION BY THE DEPARTMENT.

S 69-KK. EXPIRATION AND RENEWAL. 1. ANY LICENSE GRANTED PURSUANT TO THIS ARTICLE SHALL EXPIRE AT THE END OF ITS TERM UNLESS IT IS RENEWED PURSUANT TO REGULATIONS ESTABLISHED BY THE DEPARTMENT OR REVOKED. THE REGULATIONS FOR RENEWAL SHALL BE REASONABLE AND SHALL INCLUDE A REASONABLE FEE THE COST OF WHICH SHALL NOT EXCEED THE ORIGINAL LICENSING FEE.

2. ALL INDIVIDUALS LICENSED UNDER THIS ARTICLE MUST COMPLETE AND/OR TEACH A MINIMUM OF SIXTEEN HOURS OF CONTINUING EDUCATION PER YEAR OF CLASSES APPROVED BY THE DEPARTMENT IN ORDER TO RENEW HIS OR HER LICENSE AND PROVIDE DOCUMENTATION THEREOF. THE DEPARTMENT MAY, AT ITS DISCRETION, ALLOW THE LICENSEE TO USE ARTICLES WRITTEN BY THE LICENSEE THAT HAVE BEEN PUBLISHED IN PEER-REVIEWED JOURNALS TO MEET THIS REQUIREMENT.

S 69-LL. LIST OF LOCKSMITHS. THE DEPARTMENT SHALL MAINTAIN A LIST OF THE NAMES AND ADDRESSES OF ALL LOCKSMITHS LICENSED UNDER THIS ARTICLE. THE LIST SHALL BE MADE AVAILABLE TO THE PUBLIC IN WRITTEN FORM UPON REQUEST AND PAYMENT OF A REASONABLE FEE AND ON THE DEPARTMENT'S INTERNET WEBSITE.

S 69-MM. INSURANCE. A LOCKSMITH SHALL MAINTAIN AN INSURANCE POLICY SUFFICIENT FOR THE PURPOSE OF PAYING CLAIMS OR JUDGMENTS FOR DAMAGES WHICH MAY OCCUR AS A RESULT OF NEGLIGENCE OF SAID LOCKSMITH OR HIS OR HER EMPLOYEES. THE DEPARTMENT MAY ASK FOR PROOF OF INSURANCE AT ITS DISCRETION.

S 69-NN. WORK ORDERS. 1. ANY LICENSED LOCKSMITH WHO KNOWINGLY AND WILLFULLY PERFORMS A LOCKSMITH SERVICE, WHETHER OR NOT FOR COMPENSATION, SHALL COMPLETE A WORK ORDER AT THE TIME THE SERVICE WAS PERFORMED AND PROVIDE A COPY OF THE COMPLETED WORK ORDER TO THE PERSON FOR WHOM THE SERVICE WAS PERFORMED.

2. THE WORK ORDER SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) A DESCRIPTION OF THE WORK PERFORMED, THE APPROXIMATE LENGTH OF TIME INVOLVED, AND AN ITEMIZED BREAKDOWN OF ANY FEES;

(B) THE NAME, SIGNATURE, BUSINESS CONTACT INFORMATION, AND LICENSE NUMBER OF THE LOCKSMITH PERFORMING THE SERVICE;

(C) IF THE SERVICE PERFORMED BY THE LOCKSMITH INVOLVES THE OPENING OF ANY RESIDENTIAL OR COMMERCIAL ESTABLISHMENT FOR ANOTHER PERSON BY ANY METHOD, THE LOCKSMITH SHALL OBTAIN AND RECORD THE STREET ADDRESS OF THE RESIDENT OR COMMERCIAL ESTABLISHMENT, THE SIGNATURE OF THE PERSON FOR WHOM THE SERVICE WAS PERFORMED, AND THE FOLLOWING INFORMATION REGARDING THE PERSON FOR WHOM THE SERVICE WAS PERFORMED: NAME, ADDRESS, TELEPHONE NUMBER;

(D) IF THE SERVICE PERFORMED BY THE LOCKSMITH INVOLVES THE OPENING OF A MOTOR VEHICLE, PERSONAL PROPERTY REGISTERED UNDER THE VEHICLE CODE, OR ANY OTHER PIECE OF PERSONAL PROPERTY FOR ANOTHER PERSON BY ANY METHOD, THE LOCKSMITH SHALL OBTAIN AND RECORD THE LOCATION WHERE THE WORK WAS PERFORMED, THE VIN NUMBER OF THE VEHICLE (IF APPLICABLE), THE SIGNATURE OF THE PERSON FOR WHOM THE SERVICE WAS PERFORMED, AND THE FOLLOWING INFORMATION REGARDING THE PERSON FOR WHOM THE SERVICE WAS PERFORMED: NAME, ADDRESS, TELEPHONE NUMBER;

(E) A STATEMENT DECLARING THAT THE PERSON FOR WHOM THE WORK WAS PERFORMED AND WHO SIGNED THE WORK ORDER IS AUTHORIZED TO HAVE ENGAGED THE SERVICES OF THE LOCKSMITH FOR THE WORK DESCRIBED ON THE WORK ORDER.

BEFORE PERFORMING THE SERVICE, THE LOCKSMITH SHALL MAKE A REASONABLE GOOD FAITH EFFORT TO ASCERTAIN IF THE PERSON FOR WHOM THE SERVICE IS TO BE PERFORMED IS AUTHORIZED TO ENGAGE THE LOCKSMITH TO DO SO. IF THE PERSON IS NOT THE OWNER OF THE BUILDING, VEHICLE, OR ITEM TO BE OPENED, THE LOCKSMITH SHALL OBTAIN AND NOTE ON THE WORK ORDER THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE OWNER AS WELL AS A DESCRIPTION OF THE RELATIONSHIP BETWEEN THE OWNER AND THE CUSTOMER;

(F) IF THE LOCKSMITH CANNOT AFTER A REASONABLE GOOD FAITH EFFORT OBTAIN ANY OF THE ABOVE INFORMATION, THE LOCKSMITH SHALL INDICATE SO ON THE WORK ORDER AND STATE HIS OR HER REASON OR REASONS FOR PROCEEDING WITH THE SERVICE IN THE ABSENCE OF SUCH IDENTIFICATION.

3. THE LOCKSMITH SHALL RETAIN A COPY OF EACH WORK ORDER FOR A MINIMUM OF ONE YEAR.

4. THE WORK ORDERS SHALL BE OPEN FOR INSPECTION BY ANY LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED TO VIEW SUCH RECORDS OR BY THE DEPARTMENT DURING BUSINESS HOURS OR SUBMITTED TO THE DEPARTMENT UPON REQUEST. THE DEPARTMENT SHALL CREATE AND MAINTAIN A SAMPLE WORK ORDER FORM AND MAKE SUCH FORM AVAILABLE ON THE DEPARTMENT WEBSITE FOR USE BY LOCKSMITHS.

S 69-OO. EXCLUSIONS. THIS ARTICLE DOES NOT APPLY TO THE FOLLOWING PERSONS:

1. ANY PERSON, OR HIS OR HER AGENT OR EMPLOYEE, WHO IS THE MANUFACTURER OF A PRODUCT, OTHER THAN LOCKS AND KEYS, AND WHO INSTALLS, REPAIRS, OPENS, OR MODIFIES LOCKS OR WHO MAKES KEYS FOR THE LOCKS OF THAT PRODUCT AS A NORMAL INCIDENT TO ITS MARKETING.

2. EMPLOYEES WHO ARE INDUSTRIAL OR INSTITUTIONAL LOCKSMITHS AND PROVIDED THAT SUCH EMPLOYEES PROVIDE LOCKSMITH SERVICES ONLY TO A SINGLE EMPLOYER WHO DOES NOT PROVIDE LOCKSMITH SERVICES FOR HIRE TO THE PUBLIC.

3. TOW TRUCK OPERATORS AND MOTOR VEHICLE REPAIR TECHNICIANS WHO DO NOT ORIGINATE KEYS FOR LOCKS AND WHOSE LOCKSMITH SERVICES ARE LIMITED TO MOTOR VEHICLE LOCKS.

4. MOTOR VEHICLE MANUFACTURES AND DEALERS AND THEIR AUTHORIZED AGENTS SO LONG AS THE LOCKSMITH SERVICES ARE LIMITED TO SERVICING, INSTALLING, REPAIRING, AND REBUILDING OF AUTOMOTIVE LOCKS.

5. ANY PERSON EMPLOYED EXCLUSIVELY AND REGULARLY BY A STATE CORRECTIONAL INSTITUTION WHILE ACTING IN THE NORMAL COURSE OF HIS OR HER EMPLOYMENT.

6. ANY AGENT OR EMPLOYEE OF A RETAIL ESTABLISHMENT THAT HAS A PRIMARY BUSINESS OTHER THAN PROVIDING LOCKSMITH SERVICES, PROVIDING ALL OF THE FOLLOWING CRITERIA ARE MET:

(A) THE LOCKSMITH SERVICES PROVIDED BY THE RETAIL ESTABLISHMENT ARE LIMITED TO KEY DUPLICATING, REKEYING AND RECOMBINATION OF LOCKS, AND THE SALE OF PREVIOUSLY MANUFACTURED LOCKS;

(B) ANY KEY DUPLICATING, REKEYING AND RECOMBINATION, AND INSTALLATION OF LOCKS MUST TAKE PLACE ON THE PREMISES OF THE RETAIL ESTABLISHMENT;

(C) NO UNLICENSED AGENT OR EMPLOYEE OF THE RETAIL ESTABLISHMENT SHALL ADVERTISE OR REPRESENT HIMSELF OR HERSELF TO BE LICENSED UNDER THIS CHAPTER, AND NO AGENT OR EMPLOYEE OF THE RETAIL ESTABLISHMENT SHALL ADVERTISE OR REPRESENT HIMSELF OR HERSELF TO BE A LOCKSMITH;

(D) NO AGENT OR EMPLOYEE OF THE RETAIL ESTABLISHMENT SHALL DESIGN OR IMPLEMENT A MASTER KEY SYSTEM; AND

(E) THE RETAIL ESTABLISHMENT SHALL NOT HAVE ON ITS PREMISES ANY LOCKSMITH TOOL, OTHER THAN THE FOLLOWING:

(I) KEY DUPLICATION MACHINES;

(II) KEY BLANKS; OR

(III) PIN KITS.

7. RETAIL MERCHANTS WHO INSTALL, PROGRAM, REPAIR, MAINTAIN, REPROGRAM, REBUILD, OR SERVICE ELECTRONIC GARAGE DOOR DEVICES, SO LONG AS THE MERCHANT IS NOT ALSO PROVIDING LOCKSMITH SERVICES AS DEFINED IN SECTION SIXTY-NINE-BB OF THIS ARTICLE.

8. MAINTENANCE EMPLOYEES AND SECURITY PERSONNEL WHO OPEN LOCKS WHILE ACTING IN THE NORMAL COURSE OF THEIR EMPLOYMENT.

9. ANY LAW ENFORCEMENT OFFICER EMPLOYED BY ANY CITY, COUNTY, STATE, OR FEDERAL LAW ENFORCEMENT AGENCY, IF ALL SERVICES ARE PERFORMED DURING THE COURSE OF THE OFFICER'S PROFESSIONAL DUTIES.

10. FIREFIGHTERS OR EMERGENCY PERSONNEL EMPLOYED BY ANY CITY, COUNTY, DISTRICT, STATE, OR FEDERAL AGENCY, IF ALL SERVICES ARE PERFORMED DURING THE COURSE OF DUTIES AS A FIREFIGHTER OR EMERGENCY PERSON.

11. SALES REPRESENTATIVES WHO ARE NOT LICENSED, WHO DO NOT IDENTIFY THEMSELVES AS LOCKSMITHS, AND WHOSE BUSINESS IS RESTRICTED TO MAKING BONA FIDE SALES DEMONSTRATIONS TO LOCKSMITHS.

S 69-PP. APPLICABILITY. 1. THIS ARTICLE SHALL APPLY TO ALL LOCKSMITHS, PROVIDED, HOWEVER, THAT A POLITICAL SUBDIVISION MAY IMPOSE OTHER REQUIREMENTS THAT ARE IN ADDITION TO THE MINIMUM STANDARDS SET FORTH IN THIS ARTICLE.

2. THE PROVISIONS OF THIS ARTICLE SHALL NOT BE CONSTRUED TO LIMIT IN ANY WAY THE AUTHORITY OF A POLITICAL SUBDIVISION TO ENACT, IMPLEMENT AND CONTINUE TO ENFORCE LOCAL LAWS AND REGULATIONS GOVERNING LOCKSMITHS THAT WERE IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE, OR TO ENACT, IMPLEMENT AND ENFORCE ANY AMENDMENTS THERETO AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

S 3. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this article directly involved in the controversy in which the judgment shall have been rendered.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.