



2013 SENATE BILL 698

April 1, 2014 – Introduced by Senator WIRCH. Referred to Committee on Judiciary and Labor.

1 **AN ACT to amend** subchapter II (title) of chapter 440 [precedes 440.26]; and **to**
2 **create** 101.862 (4) (o), 440.03 (13) (b) 34m., 440.08 (2) (a) 39r. and 440.27 of the
3 statutes; **relating to:** professional licensure of locksmiths, granting
4 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill establishes a licensure program for locksmiths in Wisconsin to be administered by the Department of Safety and Professional Services (DSPS).

Under the bill, subject to specific exemptions enumerated below, any person who, for compensation, performs locksmithing in Wisconsin must be licensed by DSPS. The bill defines “locksmithing” to mean servicing, installing, originating first keys for, rekeying, master keying, recoding, recombining, manipulating, dismantling, or bypassing a security device. Under the bill, “security device” means a mechanical or electronic lock or other device used to control access to certain objects and areas or an intrusion detection device.

The bill requires DSPS to grant a locksmith license to an applicant for licensure if DSPS determines that certain requirements are met, including that the applicant satisfies any education, training, or examination requirements established by DSPS by rule; that, subject to the Wisconsin Fair Employment Law, the applicant does not have an arrest or conviction record; and that the applicant has not had a license or other credential to act as a locksmith in any state denied, canceled, revoked, or surrendered in lieu of revocation unless that license or other credential was later granted or reinstated.

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Under the bill, a locksmith license is not required for any of the following:

1. The servicing, installing, repairing, or rebuilding of a motor vehicle security device by a motor vehicle manufacturer, dealer, or mechanic, or its employee.
2. The dismantling or otherwise bypassing of a security device in an emergency by a law enforcement officer, fire fighter, or other emergency response personnel.
3. The duplication of a nonelectronic key or the sale of a security device by the employee of a retail or hardware store.
4. The installation or removal of a complete security device by a member of the building or construction trade during residential or commercial new construction or remodeling, if a building permit is required for the construction or remodeling and is obtained.
5. The dismantling or otherwise bypassing of a motor vehicle security device by the employee of a towing service or motor club for the limited purpose of gaining access to the motor vehicle.
6. The dismantling or otherwise bypassing of a motor vehicle security device by a person authorized to repossess the motor vehicle or an employee of that person, for the limited purpose of gaining access to the motor vehicle.
7. The performance of locksmithing under the supervision of a licensed locksmith by an apprentice in locksmithing, as provided for in the bill, or by a student enrolled in a program of locksmithing education approved by DSPS.
8. The servicing, installing, repairing, or rebuilding of a security device by an employee of the manufacturer of that security device.
9. The servicing, installing, repairing, or rebuilding of an intrusion alarm or other intrusion detection device by an employee of an alarm company or other company in the intrusion detection industry.
10. The work of a registered or licensed electrician who is acting within the scope of his or her registration or license.

Under the bill, DSPS is required to keep a register of the names and addresses of all currently licensed locksmiths, and each licensed locksmith must file with DSPS a bond or liability policy in an amount determined by DSPS by rule. The bill also requires the secretary of DSPS to appoint an advisory committee to advise DSPS on matters relating to the regulation of locksmiths.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 101.862 (4) (o) of the statutes is created to read:
- 2 101.862 (4) (o) A locksmith licensed under s. 440.27 who is engaged in
- 3 installing, repairing, or maintaining electrical wiring, equipment, or systems for a

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1 security device, as defined in s. 440.27 (1) (d), if the locksmith's work is performed
2 within the scope his or her license.

3 **SECTION 2.** 440.03 (13) (b) 34m. of the statutes is created to read:

4 440.03 (13) (b) 34m. Locksmith.

5 **SECTION 3.** 440.08 (2) (a) 39r. of the statutes is created to read:

6 440.08 (2) (a) 39r. Locksmith: December 1 of each odd-numbered year.

7 **SECTION 4.** Subchapter II (title) of chapter 440 [precedes 440.26] is amended
8 to read:

9 **CHAPTER 440**

10 **SUBCHAPTER II**

11 **PRIVATE DETECTIVES, PRIVATE**

12 **SECURITY PERSONS, LOCKSMITHS**

13 **SECTION 5.** 440.27 of the statutes is created to read:

14 **440.27 Locksmiths. (1) DEFINITIONS.** In this section:

15 (a) "Licensed locksmith" means a person who is licensed under this section.

16 (b) "Locksmith" means a person who performs locksmithing.

17 (c) "Locksmithing" means servicing, installing, originating first keys for,
18 rekeying, master keying, recoding, recombining, manipulating, dismantling, or
19 bypassing a security device.

20 (d) "Security device" means any of the following:

21 1. A mechanical or electronic lock or other device that is used to control access
22 to or exit from premises, motor vehicles, safes, vaults, safe deposit boxes, automated
23 teller machines, as defined in s. 134.85 (1) (a), or other areas to which access is
24 intended to be limited.

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1 2. An intrusion detection device, including a burglar alarm or a motor vehicle
2 alarm.

3 **(2) LICENSE REQUIRED.** Except as provided under sub. (3), no person may, for
4 compensation, act as a locksmith in this state unless the person is a licensed
5 locksmith.

6 **(3) EXEMPTIONS.** No license under this section is required to perform any of the
7 following activities:

8 (a) The servicing, installing, repairing, or rebuilding of a motor vehicle security
9 device by a motor vehicle manufacturer, dealer, or mechanic or an employee of a
10 motor vehicle manufacturer, dealer, or mechanic who is acting within the scope of his
11 or her employment.

12 (b) The dismantling or otherwise bypassing of a security device in an
13 emergency by a law enforcement officer, fire fighter, or other emergency response
14 personnel.

15 (c) The duplication of a nonelectronic key or the sale of a security device by the
16 employee of a retail or hardware store who is acting within the scope of his or her
17 employment.

18 (d) The installation or removal of a complete security device by a member of the
19 building or construction trade during residential or commercial new construction or
20 residential or commercial remodeling, if a building permit is required for the
21 construction or remodeling and is obtained.

22 (e) The dismantling or otherwise bypassing of a motor vehicle security device
23 by the employee of a towing service or motor club, if the employee is acting within
24 the scope of his or her employment and the performance of locksmithing by the
25 employee is limited to gaining access to the motor vehicle.

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1 (f) The dismantling or otherwise bypassing of a motor vehicle security device
2 by a person authorized to repossess the motor vehicle or an employee of that person,
3 if the person or employee is acting within the scope of his or her authorization or
4 employment and the performance of locksmithing by the person or employee is
5 limited to gaining access to the motor vehicle.

6 (g) The performance of locksmithing under the supervision of a licensed
7 locksmith by an apprentice in locksmithing under sub. (9) or by a student enrolled
8 in a program of locksmithing education approved by the department.

9 (h) The servicing, installing, repairing, or rebuilding of a security device by the
10 employee of the manufacturer of that security device who is acting within the scope
11 of his or her employment.

12 (i) The servicing, installing, repairing, or rebuilding of an intrusion alarm or
13 other intrusion detection device by an employee of an alarm company or other
14 company in the intrusion detection industry who is acting within the scope of his or
15 her employment.

16 (j) Work performed by an electrician who is registered or licensed under ch. 101
17 and is acting within the scope of that registration or license.

18 **(4) USE OF TITLE.** No person may use the title “locksmith” or “licensed
19 locksmith” or imply or represent that the person is a licensed locksmith unless the
20 person is a licensed locksmith.

21 **(5) INITIAL LICENSE.** The department shall grant a license to act as a locksmith
22 to an applicant for licensure as a locksmith if the department determines that all of
23 the following requirements are met:

24 (a) The applicant submits an application for the license to the department on
25 a form prescribed by the department. The application shall include the applicant’s

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1 name and address, a recent photograph of the applicant, and any other information
2 required by the department by rule.

3 (b) The applicant satisfies any education, training, or examination
4 requirements established by the department by rule under sub. (14) (b).

5 (c) Subject to ss. 111.321, 111.322, and 111.335, the applicant does not have an
6 arrest or conviction record.

7 (d) The applicant has not had a license or other credential to act as a locksmith
8 in any state denied, canceled, revoked, or surrendered in lieu of revocation unless
9 that license or other credential was later granted or reinstated.

10 (e) The applicant pays the fee for an initial license determined by the
11 department under s. 440.03 (9) (a).

12 (f) The applicant satisfies any other requirements established by the
13 department by rule.

14 **(6) RENEWAL.** (a) The renewal date for a license granted under this section is
15 specified in s. 440.08 (2) (a) 39r. A licensed locksmith shall submit the renewal
16 application to the department on a form prescribed by the department and shall
17 include in the renewal application any information required by the department by
18 rule, including information concerning the licensed locksmith's completion of
19 continuing education or other requirements established by the department by rule
20 under sub. (14) (b).

21 (b) An applicant for renewal under this subsection shall include with the
22 renewal application the renewal fee determined by the department under s. 440.03
23 (9) (a).

24 **(7) REGISTER OF LOCKSMITHS.** The department shall compile and keep current
25 a register of the names and addresses of all licensed locksmiths. The department

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1 shall make that register available for public inspection during the times specified in
2 s. 230.35 (4) (a). The department may also make the register available to the public
3 on an Internet site maintained by the department.

4 **(8) BOND OR LIABILITY POLICY REQUIRED.** Each licensed locksmith shall file with
5 the department a bond or liability policy, approved by the department, in an amount
6 determined by the department by rule.

7 **(9) APPRENTICESHIP.** Any person who is a resident of this state and 18 years of
8 age or over may, upon application filed with the department on a form prescribed by
9 the department, apprentice under a licensed locksmith in accordance with rules
10 promulgated by the department. Those rules shall be promulgated so as to protect
11 the public and may limit the locksmithing activity of an apprentice.

12 **(10) RECIPROCAL LICENSE.** (a) Upon application and payment of the fee
13 determined by the department under s. 440.03 (9) (a), the department may grant a
14 locksmith license to an applicant who holds a license or other credential granted by
15 a governmental authority in a jurisdiction outside this state that qualifies the
16 applicant to perform locksmithing under a locksmith license granted by the
17 department.

18 (b) The department may enter into a reciprocal agreement with the officials of
19 a jurisdiction outside this state for licensing locksmiths and may grant a license to
20 a person licensed in that jurisdiction according to the terms of that agreement.

21 **(11) ADVISORY COMMITTEE.** The secretary shall appoint an advisory committee
22 under s. 440.042 to advise the department on matters relating to the regulation of
23 locksmiths.

24 **(12) DISCIPLINARY PROCEEDINGS AND ACTIONS.** Subject to the rules promulgated
25 under s. 440.03 (1), the department may conduct investigations and hold hearings

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1 to determine whether a violation of this section or any rule promulgated under this
2 section or a violation of any other law of this state, any law of another state, or any
3 federal law that substantially relates to the activity of a locksmith has occurred.

4 **(13) PENALTIES.** (a) Subject to the rules promulgated under s. 440.03 (1), the
5 department may reprimand a locksmith or deny, limit, suspend, or revoke a license
6 granted under this section if the department finds that an applicant for a license or
7 a licensed locksmith has done any of the following:

8 1. Intentionally made a material misstatement in an application for a license
9 or license renewal.

10 2. Advertised in a manner that is false or misleading.

11 3. Obtained or attempted to obtain compensation through fraud or deceit.

12 4. Violated this section or any rule promulgated under this section or violated
13 any other law of this state, any law of another state, or any federal law that
14 substantially relates to the activity of a locksmith.

15 5. Engaged in unprofessional conduct as defined by the department by rule.

16 (b) In addition to or in lieu of a reprimand or other action under par. (a), the
17 department may establish by rule other penalties, including a forfeiture not to
18 exceed \$5,000 for each violation, for a violation under par. (a).

19 **(14) RULES.** The department shall promulgate rules necessary to administer
20 this section, including rules that do all of the following:

21 (a) Establish rules of conduct for locksmiths.

22 (b) Establish appropriate education, training, examination, and other
23 requirements for the initial licensure of locksmiths and establish appropriate
24 continuing education, training, and other requirements for licensure renewal.

25 **SECTION 6. Effective date.**

