

2013 DRAFTING REQUEST

Bill

Received: **10/1/2013** Received By: **mgallagh**
Wanted: **As time permits** Same as LRB:
For: **Robert Wirch (608) 267-8979** By/Representing: **Paula**
May Contact: Drafter: **mgallagh**
Subject: **Occupational Reg. - prof lic** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Wirch@legis.wisconsin.gov**
Carbon copy (CC) to: **michael.gallagher@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Regulation of locksmiths

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 12/10/2013	csicilia 12/11/2013	jfrantze 12/11/2013	_____			
/P1	mgallagh 3/27/2014	kfollett 3/28/2014		_____	srose 12/11/2013		State
/1			jfrantze 3/28/2014	_____	lparisi 3/28/2014	lparisi 3/28/2014	State

FE Sent For: *at*
intro

<END>

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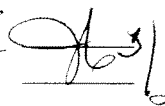
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/?	mgallagh	Pl gjs	2/12 12/11/11 13	Km 12/11			

FE Sent For:

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Gallagher, Michael

From: Gallagher, Michael
Sent: Wednesday, November 20, 2013 2:43 PM
To: 'Gary Goyke'
Subject: RE: Locksmiths draft

Gary: It looks like they want a locksmithing exception to the electrician licensure requirements. There is already a "low voltage" exception under s. 101.862 (4) (d) for a person "engaged in installing, repairing, or maintaining equipment or systems that operate at 100 volts or less." One hundred volts seems pretty low as a ceiling for "low voltage." In any case, does 100 volts cover the work they want to be able to do without an electrician's license? If not, I can include a locksmithing exception to electrician licensure requirements in the draft. Let me know. Thanks.

Mike Gallagher
Attorney
Wisconsin Legislative Reference Bureau
(608) 267-7511

-----Original Message-----

From: Gary Goyke [<mailto:gary.goyke@gmail.com>]
Sent: Tuesday, November 19, 2013 2:08 PM
To: Gallagher, Michael
Subject: Re: Locksmiths draft

Thanks for the note. I completed my due diligence and here is the response.

Gary, I checked with Chris and Keith so we are all on the same page.

"We want to be able to do low voltage wiring of installations of security devise(s). We don't want to have to get our electricians license to do this type of installation(s)"

ex: Detex Alarm Exit Devises, CCTV, Electric Stike installation, Alarm Panels, etc, etc

Kenny Briggs CRL

Janell Briggs CRL - ALOA
Chippewa Valley Lock & Key LLC
706 E Grand Ave
Chippewa Falls, WI 54729
715-726-0687 shop
715-579-1138 cell

This should help answer the question. They wish to preform these services as a locksmith.
Gary

On Mon, Nov 18, 2013 at 11:05 AM, Gallagher, Michael <Michael.Gallagher@legis.wisconsin.gov> wrote:
> Gary:
>
>
>
> Can you remind me what is intended with the "low voltage wiring"

> language handwritten at the bottom of page 2 of the marked-up draft you gave me?

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>

> Thanks.

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> Mike

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> Mike Gallagher

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> Attorney

> Wisconsin Legislative Reference Bureau

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>

> (608) 267-7511

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> From: Gary Goyke [<mailto:gary.goyke@gmail.com>]

> Sent: Tuesday, November 05, 2013 11:56 AM

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>

> To: Gallagher, Michael

> Subject: Re: Locksmiths draft

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>

> Great. Got it.

>
>
>

> Gary

> On Tue, Nov 5, 2013 at 11:55 AM, Gallagher, Michael

> <Michael.Gallagher@legis.wisconsin.gov> wrote:

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>

> That works. See you then.

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>

> Mike Gallagher

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> Attorney

> Wisconsin Legislative Reference Bureau

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> To: Gallagher, Michael

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> How about 2:30 p.m.? 10-15 minutes tops.

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> Will make a copy of the notes to leave with you as well.

>

> Thank you!!

>

>

>

> Gary

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> On Tue, Nov 5, 2013 at 11:48 AM, Gallagher, Michael

> <Michael.Gallagher@legis.wisconsin.gov> wrote:

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> Gary: If you want to stop by this afternoon, that would be fine.

> Otherwise, tomorrow before 3 PM would work. Just let me know.

>

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> Mike

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> Mike Gallagher

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> Attorney

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> Wisconsin Legislative Reference Bureau

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> (608) 267-7511

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> From: Gary Goyke [<mailto:gary.goyke@gmail.com>]

> Sent: Tuesday, November 05, 2013 11:41 AM

> To: Gallagher, Michael

> Subject: Re: Locksmiths draft

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>

> I do have that information. May I stop by later this afternoon. 2

> p.m. -

> 3:30 p.m. anytime in that time frame will work 10 minutes at most.

> Have the updates for you.

>

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>
> Thank you for the prompt!! I appreciate it. We can get this done. Rep.
> Bernier and Rep. Tom Larson also now want to see a draft.
>
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>
> I can be available anytime tomorrow if that works better for your schedule.
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> Thanks again.
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> Gary Goyke
>
> LAW
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> On Tue, Nov 5, 2013 at 11:26 AM, Gallagher, Michael
> <Michael.Gallagher@legis.wisconsin.gov> wrote:
>
> Gary: We spoke a while back about the redraft of the locksmiths draft
> for this session. I have a note on that file to wait for the go-ahead
> from you after you receive confirmation from a client on one of the
> changes to the bill—including certain public employees, I believe. I
> never heard back from you. Should I go ahead on this?
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> Thanks.
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> Mike
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> Michael P. Gallagher
>
> Legislative Attorney
>
> Wisconsin Legislative Reference Bureau
>
> 1 East Main Street, Suite 200
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> P.O. Box 2037
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> Madison, WI 53701-2037
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> (608) 267-7511
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> michael.gallagher@legis.wisconsin.gov
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Gary R. Goyke



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3680.P1
MPG:cjs:jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

KENNETH A - SENATOR WIRELL
PETER BARCA

RACINE

CORY ANNUN

state of WI cog - state

Does Land ?

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

5 SECTION 1. 440.03 (13) (b) 34m. of the statutes is created to read:
6 440.03 (13) (b) 34m. Locksmith.

---NOTE--- The Department of Safety and Professional Services (DSPS) is authorized to conduct an investigation into the arrest or conviction record of an applicant or holder of a license listed under s. 440.03 (13) (b), which includes locksmiths under the draft. Therefore I did not include a criminal investigation provision under the new statutory section created for the regulation of locksmiths under the draft.

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

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

3 SECTION 3. Subchapter II (title) of chapter 440 [precedes 440.26] is amended
4 to read.

5 CHAPTER 440

6 SUBCHAPTER II

7 PRIVATE DETECTIVES, PRIVATE

8 SECURITY PERSONS, LOCKSMITHS

9 SECTION 4. 440.27 of the statutes is created to read:

10 440.27 Locksmiths. (1) DEFINITIONS. In this section:

11 (a) "Licensed locksmith" means a person who is licensed under sub. (5).

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

13 (c) "Locksmithing" means servicing, installing, originating first keys for,
14 rekeying, ^{master key} recoding, recombining, manipulating, dismantling, or bypassing a
15 security device.

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

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

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

3. *low voltage wiring & installation of security devices* → ?
- *Note: Is the definition of "locksmithing," in conjunction with the definition of
'security device,' consistent with your intent? yes*

Master key system

*Dept. of Safety of Professional Services
DAVID ROSS*

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

4 (3) EXEMPTIONS No license under sub. (5) is required to perform any of the
5 following activities:

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

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

13 (c) The duplication of a ^{NON-Electronic} key or the sale of a security device by the employee of
14 a retail or hardware store who is acting within the scope of his or her employment.

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

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

23 (f) The dismantling or otherwise bypassing of a motor vehicle security device
24 by a person authorized to repossess the motor vehicle or an employee of that person
25 if the person or employee is acting within the scope of his or her authorization or

1 employment and the performance of locksmithing by the person or employee is
2 limited to gaining access to the motor vehicle.

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

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

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

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

15 ~~(k) Locksmithing performed by a locksmith or other security technician~~
16 ~~employed by this state who is acting within the scope of his or her employment.~~

~~***Note: Is this list of exemptions complete? Do you want to remove or narrow
any of the exemptions listed? Do you want to include employees of counties,
municipalities, villages, and towns under paragraph (k)?~~

17 (4) USE OF TITLE. No person may use the title "locksmith" or "licensed
18 locksmith" or imply or represent that the person is a licensed locksmith unless the
19 person is a licensed locksmith, ~~except that a person who is not a licensed locksmith~~
20 ~~and is exempt from licensure under sub. (j) (k) may use the title "locksmith" or other~~
21 ~~similar title but may not represent that he or she is a licensed locksmith.~~

1 (5) INITIAL LICENSE The department shall grant a license to act as a locksmith;
2 to an applicant for licensure as a locksmith if the department determines that all of
3 the following requirements are met

4 (a) The applicant submits an application for the license to the department on
5 a form prescribed by the department. The application shall include the applicant's
6 name and address, a recent photograph of the applicant, and any other information
7 required by the department by rule.

8 (b) The applicant satisfies any education, training, or examination
9 requirements established by the department by rule under sub. (15) (b).

*NO REVOKED
LICENSE*

10 (c) Subject to ss. 111-321, 111-322, and 111-335, the applicant does not have an
11 arrest or conviction record.

12 (d) The applicant pays the fee for an initial license determined by the
13 department under s. 440.03 (9) (a).

14 (e) The applicant satisfies any other requirements established by the
15 department by rule.

NOTE (NOTE: Do you want to establish a licensing requirement for a locksmithing
business or agency? See, for example, s. 440.26, stats., regarding the separate licensure
of individual private detectives and private detective agencies.)

16 (6) RENEWAL: (a) The renewal date for a license granted under sub. (5) is
17 specified in s. 440.08 (2) (a) 39c. A licensed locksmith shall submit the renewal
18 application to the department on a form prescribed by the department and shall
19 include in the renewal application any information required by the department by
20 rule, including information concerning the licensed locksmith's completion of
21 continuing education or other requirements established by the department by rule
22 under sub. (15) (b).

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

4 (7) REGISTER OF LOCKSMITHS. The department shall compile and keep current
5 a register of the names and addresses of all licensed locksmiths. The department
6 shall make that register available for public inspection during the times specified in
7 s. 230.35 (4) (a). The department may also make the register available to the public
8 on a Web site maintained by the department.

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

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

17 ~~(10) REGISTRATION OF LOCKSMITHING TOOLS. (a) No person may own or possess~~
18 ~~locksmithing tools or other equipment specifically designed to compromise or bypass~~
19 ~~security devices unless the person registers those tools or other equipment with the~~
20 ~~department in accordance with rules promulgated by the department.~~

21 ~~(b) Paragraph (a) does not apply to tools or other equipment used exclusively~~
22 ~~for emergency response by a law enforcement officer, fire fighter, or other emergency~~
23 ~~response personnel.~~

COMMENT: Do you want to specify any other exceptions to the requirement that
locksmithing tools be registered with the department? Specifically, is the intent to
require a licensed locksmith to register his or her tools? Also, is it the intent that the

~~registration requirements apply to locksmiths employed by the state who are not required to be licensed under the craft?~~

1 (11) RECIPOCAL LICENSE (a) Upon application and payment of the fee
2 determined by the department under s. 440.03 (9) (a), the department may grant a
3 locksmith license to an applicant who holds a license or other credential granted by
4 a governmental authority in a jurisdiction outside this state that qualifies the
5 applicant to perform locksmithing under a locksmith license granted by the
6 department

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

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

? ***NOTE: Do you want to specify the membership of the advisory committee or
include any other requirements regarding the advisory committee? ***

13 (13) DISCIPLINARY PROCEEDINGS AND ACTIONS Subject to the rules promulgated
14 under s. 440.03 (1), the department may conduct investigations and hearings to
15 determine whether a violation of this section or any rule promulgated under this
16 section or a violation of any other law of this state, any law of another state, or any
17 federal law that substantially relates to the activity of a locksmith has occurred

18 (14) PENALTIES (a) Subject to the rules promulgated under s. 440.03 (1), the
19 department may reprimand a locksmith or deny, limit, suspend, or revoke a license
20 granted under sub. (b) if the department finds that an applicant for a license or a
21 licensed locksmith has done any of the following

- 1 1. Intentionally made a material misstatement in an application for a license
- 2 or license renewal
- 3 2. Advertised in a manner that is false or misleading
- 4 3. Obtained or attempted to obtain compensation through fraud or deceit
- 5 4. Violated this section or any rule promulgated under this section or violated
- 6 any other law of this state, any law of another state, or any federal law that
- 7 substantially relates to the activity of a locksmith
- 8 3. Engaged in unprofessional conduct as defined by the department by rule
- 9 (b) In addition to or in lieu of a reprimand or other action under par. (a) the
- 10 department may establish by rule other penalties, including a forfeiture not to
- 11 exceed \$5,000 for each violation, for a violation under par. (a)

---NOTE: Is there any other specific conduct you want covered under the discipline and penalties subsections? Do you want to specify a different forfeiture limit?

---NOTE: Practice without a license is covered under current law under s. 149.21, stats. That section authorizes DSPS to conduct investigations, hold hearings, issue injunctions, and assess forfeitures, depending on the circumstances, for practice without a license. However, if you want to create penalties for the practice of locksmithing without a license that are different from those authorized under s. 149.21, stats., please let me know and I will include appropriate language in the draft.

No

- 12 (15) RULES. The department shall promulgate rules necessary to administer
- 13 this section, including rules that do all of the following:
- 14 (a). Establish rules of conduct for locksmiths
- 15 (b). Establish appropriate education, training, examination, and other
- 16 requirements for the initial licensure of locksmiths and establish appropriate
- 17 continuing education, training, and other requirements for licensure renewal

---NOTE: Do you want to list any other specific subjects on which you wish to require DSPS to promulgate rules?

18 SECTION 5. Effective date.

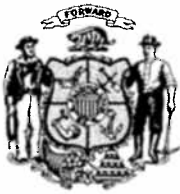
1 (1) This act takes effect on the first day of the 7th month beginning after
2 publication;

NOTE While the draft's delayed effective date gives DSPS a six-month cushion to promulgate the rules required under the draft 2011 Wisconsin Act 21, made significant changes to the rule-making process that will likely lengthen that process. For example, under Act 21, gubernatorial approval is required for a statement of scope or revised statement of scope, including for an emergency rule, and for the final draft of a rule before the proposed rule is submitted to the Legislature. At this point, the effect of Act 21 on the timing of the rules promulgation process is unclear. Please let me know if you want to include a longer delay for the effective date of the draft or exempt the rules promulgated by DSPS in the draft from any of the law changes made by Act 21. Please let me know if you have questions about these changes.

NOTE Also, do you want to include any language to grandfather in current locksmiths? If so, there are a number of options for such language that include more or less stringent requirements for granting licenses to current locksmiths. Please let me know how you want to proceed.

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(END)



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

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SECTION 1. 440.03 (13) (b) 34m. of the statutes is created to read:
440.03 (13) (b) 34m. Locksmith.

~~****NOTE: The Department of Safety and Professional Services (DSPS) is authorized to conduct an investigation into the arrest or conviction record of an applicant or holder of a license listed under s. 440.03 (13) (b), which includes locksmiths under the draft. Therefore, I did not include a criminal investigation provision under the new statutory section created for the regulation of locksmiths under the draft.~~

✓ 1

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

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

X 3 SECTION 3. Subchapter II (title) of chapter 440 [precedes 440.26] is amended
4 to read:

5 CHAPTER 440

6 SUBCHAPTER II

7 PRIVATE DETECTIVES, PRIVATE

8 SECURITY PERSONS, LOCKSMITHS

✓ 6

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SECTION 4. 440.27 of the statutes is created to read:

10 440.27 Locksmiths. (1) DEFINITIONS. In this section:

11 (a) "Licensed locksmith" means a person who is licensed under sub. (5).

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

13 (c) "Locksmithing" means servicing, installing, originating first keys for,
14 rekeying, recoding, recombining, manipulating, dismantling, or bypassing a
15 security device. *masterkeying ↑*

✓
+ this section

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

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

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

****NOTE: Is the definition of "locksmithing," in conjunction with the definition of "security device," consistent with your intent?

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

+ this section

4 (3) EXEMPTIONS. No license under sub. (2) is required to perform any of the
5 following activities:

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

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

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

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

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

23 (f) The dismantling or otherwise bypassing of a motor vehicle security device
24 by a person authorized to repossess the motor vehicle or an employee of that person,
25 if the person or employee is acting within the scope of his or her authorization or

1 employment and the performance of locksmithing by the person or employee is
2 limited to gaining access to the motor vehicle.

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

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

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

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

X 15

~~(k) Locksmithing performed by a locksmith or other security technician
employed by this state who is acting within the scope of his or her employment.~~

~~****NOTE: Is this list of exemptions complete? Do you want to remove or narrow
any of the exemptions listed? Do you want to include employees of counties,
municipalities, villages, and towns under paragraph (k)?~~

16

17 (4) USE OF TITLE. No person may use the title "locksmith" or "licensed
18 locksmith" or imply or represent that the person is a licensed locksmith unless the
19 person is a licensed locksmith, except that a person who is not a licensed locksmith

X

20 and is exempt from licensure under sub. (3) (k) may use the title "locksmith" or other
21 similar title but may not represent that he or she is a licensed locksmith.



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

4 (a) The applicant submits an application for the license to the department on
5 a form prescribed by the department. The application shall include the applicant's
6 name and address, a recent photograph of the applicant, and any other information
7 required by the department by rule.

8 (b) The applicant satisfies any education, training, or examination
9 requirements established by the department by rule under sub. (15) (b). 14

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

12 (d) The applicant pays the fee for an initial license determined by the
13 department under s. 440.03 (9) (a). ✓

14 (e) The applicant satisfies any other requirements established by the
15 department by rule. ✓

~~***NOTE: Do you want to establish a licensing requirement for a locksmithing
business or agency? See, for example, s. 440.26, stats., regarding the separate licensure
of individual private detectives and private detective agencies.~~ ✓

16 (6) RENEWAL. (a) The renewal date for a license granted under sub. (5) is
17 specified in s. 440.08 (2) (a) 39r. A licensed locksmith shall submit the renewal
18 application to the department on a form prescribed by the department and shall
19 include in the renewal application any information required by the department by
20 rule, including information concerning the licensed locksmith's completion of
21 continuing education or other requirements established by the department by rule
22 under sub. (15) (b). 14

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this section

1 (b) An applicant for renewal under this subsection shall include with the
2 renewal application the renewal fee determined by the department under s. 440.03 ✓

3 (9) (a).

4 (7) REGISTER OF LOCKSMITHS. The department shall compile and keep current
5 a register of the names and addresses of all licensed locksmiths. The department
6 shall make that register available for public inspection during the times specified in
7 s. 230.35 (4) (a). The department may also make the register available to the public
8 on a Web site maintained by the department. an Internet ✓

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

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

17 (10) REGISTRATION OF LOCKSMITHING TOOLS. (a) No person may own or possess
18 locksmithing tools or other equipment specifically designed to compromise or bypass
19 security devices unless the person registers those tools or other equipment with the
20 department in accordance with rules promulgated by the department.

21 (b) Paragraph (a) does not apply to tools or other equipment used exclusively
22 for emergency response by a law enforcement officer, fire fighter, or other emergency
23 response personnel.

****NOTE: Do you want to specify any other exceptions to the requirement that
locksmithing tools be registered with the department? Specifically, is the intent to
require a licensed locksmith to register his or her tools? Also, is it the intent that the

~~registration requirement apply to locksmiths employed by the state who are not required to be licensed under the draft?~~

1 (1) RECIPROCAL LICENSE. (a) Upon application and payment of the fee
2 determined by the department under s. 440.03 (9) (a), the department may grant a
3 locksmith license to an applicant who holds a license or other credential granted by
4 a governmental authority in a jurisdiction outside this state that qualifies the
5 applicant to perform locksmithing under a locksmith license granted by the
6 department.

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

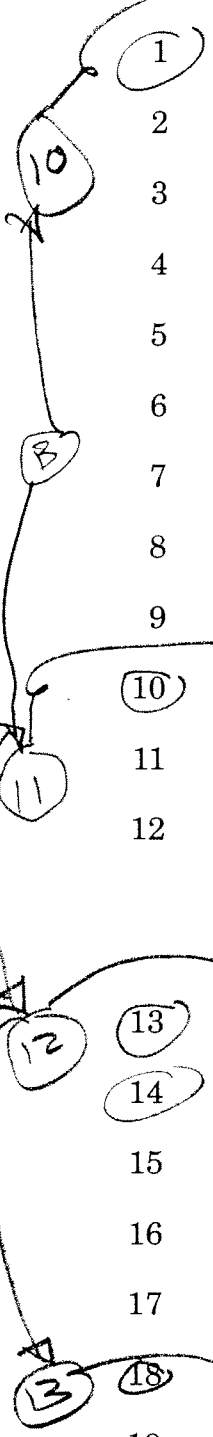
10 (12) ADVISORY COMMITTEE. The secretary shall appoint an advisory committee
11 under s. 440.042 to advise the department on matters relating to the regulation of
12 locksmiths.

****NOTE: Do you want to specify the membership of the advisory committee or include any other requirements regarding the advisory committee?

13 (13) DISCIPLINARY PROCEEDINGS AND ACTIONS. Subject to the rules promulgated
14 under s. 440.03 (1), the department may conduct investigations and ^{hold} hearings to
15 determine whether a violation of this section or any rule promulgated under this
16 section or a violation of any other law of this state, any law of another state, or any
17 federal law that substantially relates to the activity of a locksmith has occurred.

18 (14) PENALTIES. (a) Subject to the rules promulgated under s. 440.03 (1), the
19 department may reprimand a locksmith or deny, limit, suspend, or revoke a license
20 granted under sub. (5) if the department finds that an applicant for a license or a
21 licensed locksmith has done any of the following:

this section



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

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

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

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

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

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

~~****NOTE: Is there any other specific conduct you want covered under the discipline and penalties subsections? Do you want to specify a different forfeiture limit?~~

~~****NOTE: Practice without a license is covered under current law under s. 440.21, stats. That section authorizes DSPS to conduct investigations, hold hearings, issue injunctions, and assess forfeitures, depending on the circumstances, for practice without a license. However, if you want to create penalties for the practice of locksmithing without a license that are different from those authorized under s. 440.21, stats., please let me know, and I will include appropriate language in the draft.~~

14 B

12 (15) RULES. The department shall promulgate rules necessary to administer
13 this section, including rules that do all of the following:

14 (a) Establish rules of conduct for locksmiths.

15 (b) Establish appropriate education, training, examination, and other
16 requirements for the initial licensure of locksmiths and establish appropriate
17 continuing education, training, and other requirements for licensure renewal.

~~****NOTE: Do you want to list any other specific subjects on which you wish to require DSPS to promulgate rules?~~

18 SECTION 5. Effective date.

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(1) This act takes effect on the first day of the 7th month beginning after publication.

****NOTE: While the draft's delayed effective date gives DSPS a six-month cushion to promulgate the rules required under the draft, 2011 Wisconsin Act 21 made significant changes to the rule-making process that will likely lengthen that process. For example, under Act 21, gubernatorial approval is required for a statement of scope or revised statement of scope, including for an emergency rule, and for the final draft of a rule before the proposed rule is submitted to the legislature. At this point, the effect of Act 21 on the timing of the rules promulgation process is unclear. Please let me know if you want to include a longer delay for the effective date of the draft or exempt the rules promulgated by DSPS in the draft from any of the law changes made by Act 21. Please let me know if you have questions about those changes.

****NOTE: Also, do you want to include any language to "grandfather-in" current locksmiths? If so, there are a number of options for such language that include more or less stringent requirements for granting licenses to current locksmiths. Please let me know how you want to proceed.

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SECTION 1. 101.862 (4) (n) of the statutes is created to read:

3

101.862 (4) (n) A locksmith licensed under s. 440.27 who is engaged in installing, repairing, or maintaining electrical wiring, equipment, or systems for a security device, as defined in s. 440.27[✓](d), if the locksmith's work is performed within the scope his or her license. (1)

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***NOTE: Is this exemption consistent with your intent? Do you also want to include language limiting a licensed locksmith's electrical work to "low voltage" scenarios. Note that s. 101.862 (4) (d) provides the following exemption: A person engaged in installing, repairing, or maintaining equipment or systems that operate at 100 volts or less." Does that exemption already cover any work a locksmith might perform? See also the exemptions under s. 101.862 (4) (e) (security devices) and (g) (manufactured equipment or a manufactured system that is designed to provide a function that is not primarily electrical in nature, within certain parameters). Please let me know how you would like to proceed.

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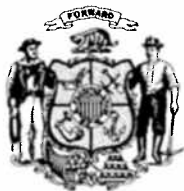
(d) The person has not had a license or other credential to act as a locksmith in any state denied, canceled, revoked, or surrendered in lieu of revocation unless that license or other credential was later granted or reinstated.

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT *to amend* subchapter II (title) of chapter 440 [precedes 440.26]; and *to*
2 *create* 101.862 (4) (n), 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 is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

5

SECTION 1. 101.862 (4) (g) of the statutes is created to read:

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101.862 (4) (g) A locksmith licensed under s. 440.27 who is engaged in

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installing, repairing, or maintaining electrical wiring, equipment, or systems for a

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security device, as defined in s. 440.27 (1) (d), if the locksmith's work is performed

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within the scope his or her license.

***NOTE: Is this exemption consistent with your intent? Do you also want to include language limiting a licensed locksmith's electrical work to "low voltage" scenarios. Note that s. 101.862 (4) (d) provides the following exemption: A person engaged in installing, repairing, or maintaining equipment or systems that operate at 100 volts or less." Does that exemption already cover any work a locksmith might perform? See also the exemptions under s. 101.862 (4) (e) (security devices) and (g) (manufactured equipment or a manufactured system that is designed to provide a function that is not primarily electrical in nature, within certain parameters). Please let me know how you would like to proceed.

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

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

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

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

SECTION 4. Subchapter II (title) of chapter 440 [precedes 440.26] is amended

to read:

CHAPTER 440

SUBCHAPTER II

PRIVATE DETECTIVES, PRIVATE

SECURITY PERSONS, LOCKSMITHS

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

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

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

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

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

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

1. A mechanical or electronic lock or other device that is used to control access to or exit from premises, motor vehicles, safes, vaults, safe deposit boxes, automated

1 teller machines, as defined in s. 134.85 (1) (a), or other areas to which access is
2 intended to be limited.

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

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

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

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

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

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

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

24 (e) The dismantling or otherwise bypassing of a motor vehicle security device
25 by the employee of a towing service or motor club, if the employee is acting within

1 the scope of his or her employment and the performance of locksmithing by the
2 employee is limited to gaining access to the motor vehicle.

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

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

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

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

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

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

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

1 (a) The applicant submits an application for the license to the department on
2 a form prescribed by the department. The application shall include the applicant's
3 name and address, a recent photograph of the applicant, and any other information
4 required by the department by rule.

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

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

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

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

14 (f) The applicant satisfies any other requirements established by the
15 department by rule.

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

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

1 **(7) REGISTER OF LOCKSMITHS.** The department shall compile and keep current
2 a register of the names and addresses of all licensed locksmiths. The department
3 shall make that register available for public inspection during the times specified in
4 s. 230.35 (4) (a). The department may also make the register available to the public
5 on an Internet site maintained by the department.

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

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

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

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

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

1 **(12) DISCIPLINARY PROCEEDINGS AND ACTIONS.** Subject to the rules promulgated
2 under s. 440.03 (1), the department may conduct investigations and hold hearings
3 to determine whether a violation of this section or any rule promulgated under this
4 section or a violation of any other law of this state, any law of another state, or any
5 federal law that substantially relates to the activity of a locksmith has occurred.

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

10 1. Intentionally made a material misstatement in an application for a license
11 or license renewal.

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

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

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

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

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

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

23 (a) Establish rules of conduct for locksmiths.

INSERT A

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.

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.

END INSERT A

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3298/1dn

MPG:cjs:jf

GF

Date

Senator Wirch:

As Paula requested, here is an introducible version of the locksmith licensure proposal. I'll repeat here my embedded drafter's note from the /P1 version of the draft because the "low voltage" issue raised in that note is apparently still under consideration and I just want to avoid the issue getting lost in the process:

X Is this exemption [under s. 101.862 (4) (a) in the draft] consistent with your intent? Do you also want to include language limiting a licensed locksmith's electrical work to "low voltage" scenarios. Note that s. 101.862 (4) (d) provides the following exemption: A person engaged in installing, repairing, or maintaining equipment or systems that operate at 100 volts or less." Does that exemption already cover any work a locksmith might perform? See also the exemptions under s. 101.862 (4) (e) (security devices) and (g) (manufactured equipment or a manufactured system that is designed to provide a function that is not primarily electrical in nature, within certain parameters). Please let me know how you would like to proceed.

Please do not hesitate to contact me with any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3298/1dn
MPG:kjf:jf

March 28, 2014

Senator Wirch:

As Paula requested, here is an introducible version of the locksmith licensure proposal. I'll repeat here my embedded drafter's note from the /P1 version of the draft because the "low voltage" issue raised in that note is apparently still under consideration and I just want to avoid the issue getting lost in the process:

Is this exemption [under s. 101.862 (4) (o) in the draft] consistent with your intent? Do you also want to include language limiting a licensed locksmith's electrical work to "low voltage" scenarios. Note that s. 101.862 (4) (d) provides the following exemption: A person engaged in installing, repairing, or maintaining equipment or systems that operate at 100 volts or less." Does that exemption already cover any work a locksmith might perform? See also the exemptions under s. 101.862 (4) (e) (security devices) and (g) (manufactured equipment or a manufactured system that is designed to provide a function that is not primarily electrical in nature, within certain parameters). Please let me know how you would like to proceed.

Please do not hesitate to contact me with any questions.

Thank you.

Michael Gallagher
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Parisi, Lori

From: McGuire, Paula
Sent: Friday, March 28, 2014 11:49 AM
To: LRB.Legal
Subject: Draft Review: LRB -3298/1 Topic: Regulation of locksmiths

Please Jacket LRB -3298/1 for the SENATE.