

Introduced by: Legislator Toback

Local Law 19-2007

A Local Law to amend the Administrative Code in relation to locksmith licenses.

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF NASSAU AS FOLLOWS:

Section 1. Title D of title XXI of title 272 of the laws of 1939 constituting the Nassau County Administrative Code, is amended to add a new Title D-2, to read as follows:

Title D-2 Locksmiths Licenses

§ 21-12.1 Definitions

As used in this title the following terms shall have the following meanings:

“Commissioner” shall mean the commissioner of the Nassau County Office of Consumer Affairs.

“Locksmith” shall mean a person whose trade or occupation is repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, safes, vaults, and safe-deposit boxes for compensation or other consideration, including services performed by safe technicians, automobile technicians and those who originate keys for locks.

"Person" means an individual, firm, partnership, association or corporation.

§ 21-12.2 License requirement

No person shall perform locksmith services within the County of Nassau unless such person holds a valid locksmith license issued by the Commissioner; provided, however, that the following persons shall not be required to hold such a license:

a. An employee or apprentice of a licensed locksmith acting under the control and supervision of the licensed locksmith.

b. A property owner, or the owner's employee, when providing locksmith services

on the property owner's property, as long as the owner or employee does not represent himself or herself as a locksmith. For purposes of this section, 'property' means, but is not limited to, a hotel, motel, apartment, condominium, commercial rental property, automobile and residential rental property.

c. A merchant, or retail or hardware store, when it lawfully duplicates keys.

d. A member of a law enforcement agency, fire department or other government agency who, when acting within the scope and course of the member's employment with the agency or department opens locked doors to vehicles, homes, or businesses.

e. A salesperson while demonstrating the use of locksmith tools to persons licensed under this title.

f. A home improvement contractor licensed under Title D-1 of this chapter when acting within the scope and course of the general contractor license.

g. Any person or firm that sells gun safes or locking devices for firearms when acting within the scope and course of the sale of gun safes or locking devices for firearms.

h. A person while performing a locksmith service in an emergency situation without receiving any compensation for this service and who does not advertise those services.

§ 21-12.3 License fee

Every license and renewal issued under this title shall take effect and expire on dates determined by the Commissioner and shall be valid for a period of two years; provided, however, where the expiration date of the registration of any license falls on a Saturday, Sunday or county holiday, such license shall be valid until midnight of the next day on which county offices shall be open for business. The fee for a locksmith's license shall be four hundred dollars.

a. Every licensed locksmith shall display the license issued hereunder in a conspicuous place where it can be readily seen by anyone entering the premises where the business is conducted and on the vehicles used in the business. Where the licensed locksmith is not in business for himself or herself but is employed by another, it shall be incumbent upon the licensee and his or her employer to display the license hereunder in a

conspicuous place where it can be readily seen by anyone entering the premises wherein the business is conducted or on the vehicle used in the business. Where more than one locksmith is employed in such premises the license of the person then in charge need only be displayed.

b. Every invoice and receipt for each transaction conducted shall include the identification number that is printed on the license issued by the Commissioner.

c. Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Commissioner.

d. Every licensee under this title shall provide to the Commissioner the names of each person employed by the licensee who either performs locksmith services or has access to locksmith tools. The licensee shall notify the Commissioner forthwith of any change in the information provided pursuant to this paragraph.

e. Every locksmith shall make a good faith effort to: (1) determine the identification of any person requesting the opening of a locked item; and (2) obtain proof that a person requesting the opening of a locked item is the proper owner of the locked item or is authorized to request that the locked item be unlocked.

f. Every locksmith opening a locked item shall, when practicable, obtain the signature or mark of the person requesting the opening of such locked item on a form to be prescribed by the commissioner. Such form shall state that the person requesting that an item be opened is authorized to open that item. The forms shall be retained by the locksmith in such manner as the commissioner shall require and shall be available at all reasonable times for inspection by the commissioner, and any departmental inspector, any police officer, or any person duly authorized by the commissioner or any judge of the criminal court.

§ 21-12.5 Proof of qualifications; fingerprinting

a. The maintenance of a bona fide establishment at a definite location shall be a prerequisite for the issuance of a locksmith license. The use of a telephone answering

service or post office box number shall not constitute a location for purposes of this section.

b. An applicant for a locksmith's license must establish that he is the real owner and possesses title to or is entitled to the possession of the establishment and will conduct, engage in and transact a locksmith business. He must furnish satisfactory evidence of a good moral character and financial responsibility.

c. The commissioner shall require that applicants for licenses issued pursuant to this title be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship the general partners if the applicant is a partnership; and the officers, principals, directors, stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation and employees of each entity. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person.

§ 21-12.6 Refusal to issue or renew, or suspension or revocation based on criminal conviction.

In addition to any of the powers that may be exercised by the commissioner pursuant to this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this title if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this title or has been convicted of any other crime which would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

§ 21-12.7 Violations and penalties

a. Any person who violates any of the provisions of this title or any rules promulgated hereunder shall be guilty of a class A misdemeanor which shall be

punishable by a fine not to exceed five thousand dollars. Each such violation shall be deemed a separate offense.

b. In addition to the penalties provided by paragraph a of this title and those provided by title 21-10.2 of this code, any person who violates any of the provisions of this title shall be subject to a fine of not more than five thousand dollars for each such violation.

c. In addition to the penalties provided by paragraphs a and b of this title and those provided by title 21-10.2 of this code, any person who uses a false or invalid license number, or falsely states or implies that he or she is licensed under this title, in any advertisements or in dealings with consumers whether oral or written, shall be subject to a penalty for a deceptive trade practice, in accordance with the provisions of title 21-10.2 of this code.

d. The County Attorney may bring an action in the name of the County to restrain or prevent any violation of this subdivision or any continuance of any such violation.

§ 21-12.8 Enforcement

The Commissioner may adopt and enforce such rules as may be reasonable and necessary for issuing licenses to applicants, for the conduct of the licensees, or for the general enforcement of this chapter in the protection of the public.

§2. Severability. If any provision, clause, sentence or paragraph of this local law, or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application if the provisions of this local law which can be given effect without the invalid provision or application and, to this end, the provisions of this local law are hereby declared to be severable.

§3. Effective Date

This law shall take effect one hundred twenty days after it shall have become a law.