

House Bill 427

By: Representatives Geisinger of the 48th and Taylor of the 79th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to
2 operators of private detective businesses and private security businesses, so as to provide for
3 definitions; to create the Georgia Board of Private Detective and Security Agencies and
4 Locksmiths; to provide for the membership, duties, and powers of such board; to provide for
5 fees; to provide for the licensing of locksmiths; to provide for qualifications for licensing;
6 to provide for certain documentation and records; to provide for identification cards; to
7 provide for the maintenance of certain information; to prohibit certain acts; to provide for
8 penalties and sanctions; to provide for exceptions; to provide for related matters; to provide
9 effective dates; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to operators of
13 private detective businesses and private security businesses, is amended by revising Code
14 Section 43-38-1, relating to the short title, as follows:

15 "43-38-1.

16 This chapter shall be known and may be cited as the 'Georgia Private Detective and
17 Security Agencies and Locksmiths Act."

18 **SECTION 2.**

19 Said chapter is further amended by revising Code Section 43-38-2, relating to the declaration
20 of purpose, as follows:

21 "43-38-2.

22 This chapter is enacted for the purpose of safeguarding the citizens of this state by
23 regulation of the private detective and private security businesses and locksmiths. The
24 regulation of such businesses and locksmiths is declared to be in the public interest; and
25 this chapter shall be liberally construed so as to accomplish the foregoing purpose."

26 **SECTION 3.**

27 Said chapter is further amended by revising Code Section 43-38-3, relating to definitions, as
28 follows:

29 "43-38-3.

30 As used in this chapter, the term:

31 (1) 'Apprentice locksmith' means any natural person, 16 years of age or older, who
32 performs locksmith services for the public for compensation under the direct and
33 continuous supervision of a locksmith.

34 ~~(1)~~(2) 'Board' means the Georgia Board of Private Detective and Security Agencies and
35 Locksmiths, a professional licensing board.

36 (3) 'Bump key' means any fabricated, specially shaped, or modified key intended to be
37 used to unlock a lock by means other than that which is intended by the manufacturer.

38 (4) 'Car-opening tool' means any metal, cloth, nylon, rubber, or plastic tool or device
39 designed to enter, bypass, or otherwise overcome the locking systems or locking
40 mechanisms of a motor vehicle by means other than that which is intended by the
41 manufacturer.

42 (5) 'Change key' means a key planned and cut to operate a specific group or series of
43 locks which all have the same combination of tumblers, pins, or wafers.

44 (6) 'Codebook' means a compilation, in any form, of key codes.

45 (7) 'Code-grabbing device' means any device that can receive, record, or receive and
46 record the code signal sent by the transmitter of a motor vehicle's security, alarm, or
47 immobilizer system and play back the signal to disarm, bypass, or neutralize such system.

48 (8) 'Designee' means a natural person who possesses the requisite skill, knowledge, and
49 experience; who is responsible for supervising, directing, managing, and controlling the
50 locksmith services of the business organization with which he or she is employed; whose
51 technical and personal qualifications have been determined by investigation and
52 examination as provided in this chapter by the board; and who has been issued a license
53 as a locksmith by the board.

54 (9) 'Emergency' means a life-threatening situation involving a person or any animal
55 generally regarded as a pet.

56 (10) 'Key duplication machine' means any device capable of copying or reproducing
57 keys.

58 ~~(2)~~(11) 'Law enforcement agency' means an agency responsible for ensuring compliance
59 with the laws and ordinances enacted by federal, state, and local governing authorities.

60 (12) 'Lock' means any mechanical, electromechanical, electronic, or electromagnetic
61 device or similar devices, including any peripheral hardware such as, but not limited to,
62 closed circuit television systems, wireless or infrared transmitters, card readers, keypads,

63 or biometric scanners, that are designed to control access to and egress from something
64 or are designed to control the use of something.

65 (13) 'Lock pick' means any manual, electric, or electronic tool or device used to bypass,
66 override, or neutralize a lock by means other than that which is intended by the
67 manufacturer.

68 (14) 'Locksmith' means a natural person, at least 18 years of age, who performs
69 locksmith services for the public for compensation and whose background and experience
70 have been verified by the board. The term 'locksmith' shall not mean a person whose
71 activities are limited to making duplicate keys.

72 (15) 'Locksmithing' or 'locksmith services' means:

73 (A) Selling, installing, servicing, repairing, repinning, recombining, and adjusting
74 locks, safes, vaults, or safe deposit boxes;

75 (B) Originating, duplicating, and copying keys;

76 (C) Opening, bypassing, and neutralizing locks, safes, vaults, or safe deposit boxes;

77 (D) Creating, documenting, selling, installing, managing, and servicing master-key
78 systems;

79 (E) Unlocking, bypassing, or neutralizing locks of motor vehicles by means other than
80 that which is intended by the manufacturer;

81 (F) Originating of keys for motor vehicles that includes, if necessary, the
82 programming, reprogramming, or bypassing of any security, transponder, or
83 immobilizer systems or subsequent technology built in by the manufacturer; and

84 (G) Keying, rekeying, or recombining motor vehicle locks.

85 (16) 'Locksmithing tool' means any tool that is designed, or intended by the user to be
86 used, to open a mechanical, electronic, magnetic, or electrical locking device by any
87 means other than that which is intended by the manufacturer for such a device in normal
88 operation.

89 (17) 'Manipulation key' means any key other than a change key or master key that can
90 be variably positioned or manipulated in a keyway to bypass, override, or neutralize a
91 lock by means other than that which is intended by the manufacturer to open a lock. The
92 term 'manipulation key' shall also apply to wiggle and bump keys.

93 (18) 'Master key' means a key planned or cut to operate all locks in a series or group of
94 locks, with each lock in the series or group having its own unique key. Submaster, grand
95 master, great grand master, emergency override, and maid's keys shall be considered the
96 same as a master key.

97 (19) 'Master-key system' means a system of locks in which a lock is keyed so that it can
98 be operated by its own individual key and can also be operated by a key that can operate
99 locks in the system that are also keyed to their own individual keys.

100 (20) 'Photo identification card' means a document supplied by the locksmith with a
 101 photograph of the locksmith or apprentice locksmith on its face, the format of which is
 102 approved by the board.

103 ~~(3)~~(21) 'Private detective business' means the business of obtaining or furnishing, or
 104 accepting employment to obtain or to furnish, information with reference to:

105 (A) Crimes or wrongs done or threatened against the United States of America or any
 106 state or territory thereof;

107 (B) The background, identity, habits, conduct, business, employment, occupation,
 108 assets, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
 109 activity, movement, whereabouts, affiliations, associations, transactions, acts,
 110 reputation, or character of any person;

111 (C) The location, disposition, or recovery of lost or stolen property;

112 (D) The cause or responsibility for fires, libels, losses, accidents, damage, or injury to
 113 persons or property;

114 (E) The securing of evidence in the course of the private detective business to be used
 115 before any court, board, officer, or investigating committee; or

116 (F) The protection of individuals from serious bodily harm or death.

117 ~~(4)~~(22) 'Private security business' means engaging in the business of, or accepting
 118 employment to provide, any or all of the following:

119 (A) Private patrol service;

120 (B) Watchman service;

121 (C) Guard service;

122 (D) Armored car service; or

123 (E) The protection of persons from death or serious bodily harm.

124 (23) 'Safe-opening tool' means any tool designed, or intended by the user to be used, to
 125 open a safe, vault, safe deposit box, or similar object by means other than that which is
 126 intended by the manufacturer of the safe, vault, safe deposit box, or similar object for
 127 normal opening.

128 (24) 'Tryout key' means a manipulation key that may or may not be one of a set of
 129 similar keys used for a specific series, keyway, or brand of lock to open, bypass, override,
 130 or neutralize a lock by means other than that which is intended by the manufacturer."

131 **SECTION 4.**

132 Said chapter is further amended by revising Code Section 43-38-4, relating to creation of
 133 board, members, secretary, records, and general powers and duties, as follows:

134 "43-38-4.

135 (a) There is created the Georgia Board of Private Detective and Security Agencies and
136 Locksmiths. The board shall consist of ~~seven~~ 11 members, each of whom shall be
137 appointed by the Governor. Each member shall serve for a term of four years. Four
138 members shall be engaged in the contract private detective or contract private security
139 business and shall have at least four years of experience in such business immediately
140 preceding their appointment; provided, however, that on and after October 1, 1987, at least
141 two members shall be engaged in the contract private security business. Four members
142 shall be persons who have at least three years' experience in the locksmith profession and
143 are currently engaged in such profession or shall be honorably retired from such profession
144 and had more than five years' experience in the profession prior to retirement. Two
145 members shall be engaged in state, county, or municipal law enforcement and shall have
146 at least four years of experience in governmental law enforcement immediately preceding
147 their appointment. One member shall be appointed from the public at large. At the first
148 meeting of the board held each year, the members shall elect a ~~chairman~~ chairperson to
149 serve for one year. The Governor may remove any member of the board for neglect of
150 duty, incompetence, or other unethical or dishonorable conduct. After such removal or
151 after the creation of a vacancy due to death, resignation, or ineligibility, the Governor shall
152 appoint a successor to serve the unexpired term. Appointees to the board shall,
153 immediately after their appointment, take and subscribe to a written oath or affirmation
154 required by law for all public officers.

155 (b) The members of the board shall be reimbursed as provided for in subsection (f) of
156 Code Section 43-1-2.

157 (c) The division director shall be the secretary of the board and shall perform such
158 administrative duties as may be prescribed by the board. All official records of the board
159 or affidavits by the division director as to the content of such records shall be prima-facie
160 evidence of all matters required to be kept therein.

161 (d) In addition to any authority otherwise granted by this chapter and subject to the laws
162 relating to the division director, the board shall have the following powers and duties:

163 (1) To determine the qualifications of applicants for licenses or registration under this
164 chapter;

165 (2) To investigate alleged violations of this chapter or any rules and regulations adopted
166 by the board, including the power to conduct inspections of a licensee's employee lists
167 and training records;

168 (3) To promulgate all rules and regulations necessary to carry out this chapter;

169 (4) To establish and enforce standards governing the conduct of persons licensed and
170 registered under this chapter;

- 171 (5) To maintain in its name an action for injunctive or other appropriate legal or
 172 equitable relief to remedy violations of this chapter. In pursuing equitable remedies, it
 173 shall not be necessary that the board allege or prove that it has no adequate remedy at
 174 law. It is declared that violations of this chapter are a menace and a nuisance and are
 175 dangerous to the public health, safety, and welfare;
- 176 (6) To recommend to the division director the employment or appointment of such
 177 personnel, including, but not limited to, inspectors, as may be necessary to assist the
 178 board in exercising and performing any and all the powers, duties, and obligations set
 179 forth in this chapter;
- 180 (7) To require a licensee to maintain and keep such records as are subject to inspection
 181 under this chapter;
- 182 (8) To issue, renew, deny, suspend, or revoke licenses, certificates, registrations, or
 183 permits in a manner consistent with this chapter;
- 184 (9) To hold hearings on all matters properly brought before it and, in connection
 185 therewith, to administer oaths, receive evidence, make the necessary determinations, and
 186 enter orders consistent with the findings; and
- 187 (10) To develop and apply such techniques which may include examinations as may be
 188 deemed necessary to assure that applicants licensed, registered, or issued weapons
 189 permits have the requisite skills and qualifications."

190

SECTION 5.

191 Said chapter is further amended by revising Code Section 43-38-5, which was previously
 192 reserved, as follows:

193 "43-38-5.

194 (a) Any person desiring to be licensed as a locksmith shall apply to the board on forms
 195 furnished by the board. The board shall license each applicant who:

196 (1) Has completed the application form and remitted a nonrefundable application fee as
 197 determined by board rule;

198 (2) Is at least 18 years of age;

199 (3) Is a legal citizen of the United States and this state or is a legal resident alien;

200 (4) Shows proof of insurance in an amount established by rule or regulation of the board
 201 sufficient for the purpose of paying claims or judgments for damages which may occur
 202 as a result of negligence of such locksmith or his or her employees which shall include
 203 general or professional liability and, if applicable, workers' compensation insurance;

204 (5) Has submitted to the board a set of fingerprints on a form and under procedures
 205 specified by the board for a fingerprint and criminal background check and payment in
 206 an amount equal to the costs incurred by the board for the fingerprint and criminal

207 background check of the applicant. The board, or its designee, shall periodically,
208 including at the time of license renewal, consult with state and federal law enforcement
209 officials to determine whether current licensees have new criminal convictions; and

210 (6) Does not have an unpardoned felony in his or her criminal record that would
211 adversely affect his or her employment in the locksmith profession or has not had any
212 prior license to do business revoked for fraud or misrepresentation.

213 (b) An applicant shall not be refused a license to practice as a locksmith solely because of
214 a prior criminal conviction unless the criminal conviction directly relates to the ability of
215 the applicant to work in the locksmith profession. However, the board shall have the
216 authority to refuse an applicant a license if, based on all the information available,
217 including the applicant's record of prior criminal convictions, it finds that the applicant is
218 unfit or unsuited to engage in the locksmith profession.

219 (c) The license granted under this chapter shall not be transferred or assigned and is valid
220 only with respect to the locksmith to whom it is issued.

221 (d) The application form for initial issuance or renewal of a license or registration,
222 including any forms required for fingerprint and criminal background checks, photo
223 identification cards, methods to obtain and renew photographs, and other requirements for
224 implementing this chapter, shall be established by rule or regulation by the board.

225 (e)(1) In addition to the requirements enumerated in this Code section, each applicant for
226 a license under this chapter shall provide satisfactory evidence to the board that the
227 prospective licensee has posted or has made provision for the posting of a bond. The
228 required bond shall be executed in favor of the state, in the amount of \$25,000.00, with
229 a surety company authorized to do business in this state and conditioned to pay damages
230 not to exceed the amount of such bond to any person aggrieved by any act of the principal
231 named in such bond, which act is in violation of this chapter and would be grounds for
232 denial, suspension, or revocation of a license under Code Section 43-38-11. Immediately
233 upon the granting of a license, such bond shall be filed with the division director by the
234 licensee and shall be approved by the division director as to form and as to the solvency
235 of the surety. The prospective licensee may file the required bond with the division
236 director prior to the granting of a license for the division director's approval as provided
237 in this Code section. In lieu of the required bond, a prospective licensee may submit to
238 the board evidence of a policy of liability insurance in an amount of not less than \$1
239 million insuring such prospective licensee against personal liability for damages arising
240 out of acts of the insured or his or her employees. No licensee shall cancel or cause to
241 be canceled a bond or liability insurance policy issued pursuant to this Code section
242 unless the board is so informed in writing by certified mail or statutory overnight delivery
243 at least 30 days prior to the proposed cancellation. In lieu of the required bond or liability

244 insurance policy, the prospective licensee may submit a net worth affidavit, prepared
 245 using standard accounting procedures, which affidavit indicates that the prospective
 246 licensee has a net worth of more than \$50,000.00. The board, in its discretion, may
 247 accept a net worth affidavit in lieu of the bond or liability insurance policy required by
 248 this subsection. The board, in its discretion, may require licensees under this Code
 249 section to submit periodic financial updates to ensure continued financial responsibility.
 250 If the surety or licensee fails to submit, within ten days of the effective date of
 251 cancellation, a new bond or liability insurance policy or a net worth affidavit as outlined
 252 in this subsection, the board shall have the authority to revoke any license issued under
 253 this chapter.

254 (2) Licensees who have previously posted bonds or submitted net worth affidavits to
 255 comply with the provisions of this subsection may hereafter prove continued financial
 256 responsibility through the use of liability insurance policies in accordance with
 257 paragraph (1) of this subsection. Reserved."

258 **SECTION 6.**

259 Said chapter is further amended by revising Code Section 48-38-8, relating to temporary
 260 employees, as follows:

261 "43-38-8.

262 Notwithstanding any other provisions of this chapter, any person or corporation may use
 263 temporary employees for providing security for special events, provided that such
 264 temporary employment does not exceed 30 days in a calendar year and such employees do
 265 not carry firearms in connection with such employment."

266 **SECTION 7.**

267 Said chapter is further amended by revising Code Section 43-38-10, relating to permits to
 268 carry firearms, proficiency requirement, exemption from specified laws, denial, refusal to
 269 renew, and suspension of permits, and effect of license suspension and restoration, as
 270 follows:

271 "43-38-10.

272 (a) The board may grant a permit to carry a pistol, revolver, or other firearm to any person
 273 who is a license holder as defined in Code Section 16-11-125.1, who is licensed or
 274 registered as a private detective or private security officer in accordance with this chapter,
 275 and who meets the qualifications and training requirements set forth in this Code section
 276 and such other qualifications and training requirements as the board by rule may establish.
 277 The board shall have the authority to establish limits on type and caliber of such weapons
 278 by rule. Application for such permit and for renewal thereof shall be made on forms

279 provided by the division director. No weapons permit issued under this Code section shall
280 be transferable to another individual.

281 (b) No permit under this Code section shall be issued or renewed until the applicant has
282 presented proof to the board that he or she is proficient in the use of firearms. The board
283 shall have the authority to require periodic recertification of proficiency in the use of
284 firearms and to refuse to renew a permit upon failure to comply with such requirement.
285 The applicant shall present proof to the board that:

286 (1) He or she has demonstrated on the firearms range proficiency in the use of firearms
287 by meeting such minimum qualifications on pistol and shotgun (if so armed) courses as
288 the board may prescribe by rule; and

289 (2) He or she has received such other training and instruction in the use of firearms as
290 the board may require by rule.

291 (c) All private detective and private security licensees and registrants under this chapter
292 shall be required to obtain from the board a weapons permit under this Code section if a
293 firearm is carried, or is to be carried, by such licensee or registrant while at or en route
294 directly to and from his or her post or place of employment.

295 (d) Any private detective or private security licensee or registrant under this chapter
296 meeting the qualifications and training requirements set out in this Code section may be
297 issued an exposed weapons permit in accordance with this Code section and shall be
298 authorized to carry such firearm in an open and fully exposed manner. Such carrying of
299 a firearm shall be limited to the time the licensee or registrant is on duty or en route directly
300 to and from his or her post or place of employment. No stopover en route to and from such
301 post or place of employment is permitted under the terms of this Code section.

302 (e) ~~Licensees~~ Private detective or private security licensees or registrants under this
303 chapter may apply to the board for a concealed weapons permit. Qualifications and
304 training requirements for such permits and restrictions on such permits shall be established
305 by appropriate rules of the board. The board shall, in its discretion, consider and approve
306 each application for a concealed weapons permit on an individual basis.

307 (f) An individual issued a permit in accordance with this Code section shall be exempt
308 from the following laws of this state:

309 (1) Code Section 16-11-126, relating to carrying a weapon;

310 (2) Code Section 16-11-127, relating to carrying a weapon or long gun in an
311 unauthorized location; and

312 (3) Code Section 16-11-129, relating to licenses to carry weapons generally.

313 (g) The board shall have the power to deny a weapons permit to any applicant who fails
314 to provide the information and supporting documentation required by this Code section or

315 to refuse to renew a permit upon failure to comply with such weapons proficiency
316 recertification requirements as the board may prescribe.

317 (h) The board shall have the authority to order the summary suspension of any weapons
318 permit issued under this Code section, pending proceedings for revocation or other
319 sanction, upon finding that the public health, safety, or welfare imperatively requires such
320 emergency action, which finding shall be incorporated in its order.

321 (i) The board shall have the same power and authority to deny and sanction weapons
322 permits under this Code section as that enumerated in Code Section 43-38-11, based on the
323 same grounds as those enumerated in that Code section.

324 (j) A weapons permit issued under this Code section to any person whose license is
325 suspended pursuant to subsection (f) of Code Section 43-38-6 or whose registration is
326 suspended pursuant to subsection (g) of Code Section 43-38-7 shall be suspended at the
327 same time as the suspension of the license or registration without a prior hearing as
328 required in Code Section 43-38-11. A weapons permit shall be restored to a person upon
329 the restoration of the person's license or registration."

330 **SECTION 8.**

331 Said chapter is further amended by revising Code Section 43-38-10.1, relating to training
332 instructors and training programs, as follows:

333 "43-38-10.1.

334 (a) The board shall provide by rule and regulation for the registration of all private
335 detective or private security training instructors or training programs so as to regulate all
336 training requirements for licensure, registration, or weapons permits required by this
337 chapter.

338 (b) The board shall have the authority to promulgate rules and regulations governing
339 minimum training standards for private detective and private security licensure,
340 registration, or weapons permits. Such training shall be conducted by a board registered
341 training instructor or through a board approved training program.

342 (c) Any board registered training instructor or board approved training program shall be
343 required to submit to appropriate inspection of facilities and review of curriculum.

344 (d) The board may suspend, revoke, or deny any application for registration for any
345 training instructor or suspend, revoke, or deny approval of any training program as
346 provided in Code Section 43-38-11."

347 **SECTION 9.**

348 Said chapter is further amended by revising Code Section 43-38-11, relating to denial,
349 revocation, or sanction of licenses and registrations, action by board, and judicial review, as
350 follows:

351 "43-38-11.

352 (a) The board shall have the authority to refuse to grant a license or registration to an
353 applicant therefor or to revoke the license or registration of a person licensed or registered
354 by the board or to discipline a person licensed or registered by the board upon a finding by
355 a majority of the entire board that the licensee, registrant, or applicant has:

356 (1) Failed to demonstrate the qualifications or standards for a license or registration
357 contained in this chapter or the rules or regulations under which licensure is sought or
358 held. It shall be incumbent upon the applicant to demonstrate to the satisfaction of the
359 board that he or she meets all the requirements for the issuance of a license or registration
360 and, if the board is not satisfied as to the applicant's qualifications, it may deny a license
361 or registration without a prior hearing; provided, however, that the applicant shall be
362 allowed to appear before the board if he or she so desires;

363 (2) Made any false statement or given any false information in connection with an
364 application for license or registration, including an application for renewal or
365 reinstatement thereof;

366 (3) Knowingly violated this chapter or violated any rule or regulation promulgated by
367 the board pursuant to the authority contained in this chapter;

368 (4) Been convicted, in the courts of this state or of the United States, or in the courts of
369 any other state, territory, or country, of a felony, or any crime involving the illegal use,
370 carrying, or possession of a dangerous weapon, or any crime involving moral turpitude.
371 As used in this subsection, the term 'felony' shall include any offense which if committed
372 in this state would be deemed a felony, without regard to its designation elsewhere. For
373 purposes of this subsection, a 'conviction' shall be deemed to include a finding or verdict
374 of guilty or plea of guilty, regardless of whether an appeal of the conviction has been
375 sought;

376 (5) Been arrested, charged, and sentenced for the commission of a felony, any crime
377 involving the illegal use, carrying, or possession of a dangerous weapon, or any crime
378 involving moral turpitude, where:

379 (A) A plea of nolo contendere was entered to the charge;

380 (B) First offender treatment was granted without adjudication of guilt pursuant to the
381 charge; or

382 (C) An adjudication or sentence was otherwise withheld or not entered on the charge.

383 The plea of nolo contendere or the order entered pursuant to Article 3 of Chapter 8 of
384 Title 42 or other first offender treatment shall be conclusive evidence of arrest and
385 sentencing for such crime;

386 (6) Become unable to engage in the private detective, ~~or~~ private security, or locksmith
387 business with reasonable skill and safety to the public by reason of illness; use of alcohol,
388 drugs, narcotics, chemicals, or any other type of material; or any other mental or physical
389 condition. The board may, however, after investigation of the circumstances surrounding
390 each application, approve for licensure and registration those individuals who produce
391 certified medical evidence of having been successfully treated and cured of alcoholism,
392 drug addiction, or mental illness;

393 (7) Committed any act in the practice of the private detective, ~~or~~ private security, or
394 locksmith business constituting dishonesty or fraud;

395 (8) Been convicted of impersonating, or permitting or aiding and abetting any other
396 person to impersonate, a law enforcement officer or employee of the United States or of
397 this state or of any political subdivision thereof in the practice of the private detective, ~~or~~
398 private security, or locksmith business;

399 (9) Engaged in, or permitted any employee to engage in, the private detective, ~~or~~ private
400 security, or locksmith business without a valid license or registration issued under this
401 chapter;

402 (10) Willfully failed or refused to render a service or to tender a report to a client in
403 connection with the private detective, ~~or~~ private security, or locksmith business as agreed
404 between the parties and for which compensation was paid or tendered in accordance with
405 the agreement of the parties;

406 (11) Committed a felony, any crime involving the illegal use, carrying, or possession of
407 a dangerous weapon, or any crime involving moral turpitude;

408 (12) Knowingly violated, or advised, encouraged, or assisted in the violation of, any
409 court order or injunction in the course of the private detective, ~~or~~ private security, or
410 locksmith business or knowingly advised, encouraged, or assisted in the violation of any
411 lawful order issued by the board;

412 (13) Failed to renew a canceled bond or liability insurance policy in accordance with
413 subsection (e) of Code Section 43-38-5 or subsection (d) of Code Section 43-38-6 or
414 failed to supply the financial affidavit required in lieu thereof;

415 (14) Undertaken to give legal advice or counsel; misrepresented that he or she is
416 representing an attorney or is appearing or will appear in any legal proceeding; or issued,
417 delivered, or uttered any simulation of process of any nature which might lead a person
418 to believe that such simulation, whether written, printed, or typed, may be a summons,
419 warrant, writ, or other court process or pleading in any court proceeding;

420 (15) Failed to demonstrate the qualifications or standards for licensure or registration
 421 contained in this chapter or in the rules and regulations of the board. It shall be
 422 incumbent upon the applicant to demonstrate to the satisfaction of the board that he or she
 423 meets all the requirements for licensure or registration; and, if the board is not satisfied
 424 as to the applicant's qualifications, it shall have the power to deny such licensure or
 425 registration; or

426 (16) Purchased, acquired, sold, or released the telephone records, as such term is defined
 427 in Code Section 46-5-210, of any third party who is a Georgia resident.

428 (b)(1) If the board finds that any applicant for licensure or any prospective registrant is
 429 unqualified to be granted such license or to be registered, the board may:

430 (A) Deny the application for licensure or registration; or

431 (B) Limit or restrict any license or registration for a definite period of time.

432 (2) If, after notice and hearing, the board finds that the license or registration of any
 433 holder thereof should be revoked or otherwise sanctioned, the board may take any one
 434 or more of the following actions:

435 (A) Administer a public reprimand;

436 (B) Suspend any license or registration for a definite period of time;

437 (C) Limit or restrict any license or registration for a definite period of time;

438 (D) Revoke or suspend a license or registration;

439 (E) Fine any licensee or registrant in an amount not to exceed \$500.00 for each
 440 violation of a law or rule or regulation; or

441 (F) Place a licensee or registrant on probation for a definite period of time and impose
 442 such conditions of probation as will adequately protect the public during that period.

443 In its discretion, the board may restore or reinstate a license or registration which has been
 444 sanctioned and, in conjunction therewith, may impose any disciplinary or corrective action
 445 provided for in this chapter.

446 (c) Initial judicial review of a final decision of the board shall be had solely in the superior
 447 court of the county of domicile of the board."

448 **SECTION 10.**

449 Said chapter is further amended by revising Code Section 43-38-13, relating to arrest powers
 450 of licensees and registrants, as follows:

451 "43-38-13.

452 ~~Licensees~~ Private detective and private security licensees or registrants under this chapter
 453 shall have the same power of arrest as that granted to a private person by Code
 454 Section 17-4-60."

455 **SECTION 11.**

456 Said chapter is further amended by revising Code Section 43-38-14, relating to exceptions
 457 to operation of chapter and local regulation, as follows:

458 "43-38-14.

459 (a) ~~This~~ The provisions of this chapter regarding private detective and private security
 460 businesses shall not apply to:

461 (1) An officer or employee of the United States of America or of this state or a political
 462 subdivision thereof while the employee or officer is engaged in the performance of
 463 official duties;

464 (2) A person engaged in the business of furnishing information in connection with credit
 465 or marketing and a person or firm engaged as a consumer reporting agency, as defined
 466 by the federal Fair Credit Reporting Act;

467 (3) An attorney at law or a bona fide legal assistant in performing his or her duties;

468 (4) Admitted insurers, agents, and insurance brokers licensed by the state while
 469 performing duties in connection with insurance transacted by them;

470 (5) A firm engaged in the business of independent insurance claims adjusting whose
 471 employees hold a valid Georgia adjuster's license; or

472 (6) The employees of a firm identified in paragraph (5) of this subsection.

473 (b) Any person with a valid peace officer certification issued pursuant to Chapter 8 of
 474 Title 35, the 'Georgia Peace Officer Standards and Training Act,' who is employed by or
 475 works as an independent contractor for a licensed:

476 (1) Private security business shall be exempt from any training provisions required by
 477 this chapter for such business and shall be deemed to have satisfied all board rules and
 478 regulations relative to training; and

479 (2) Private detective business or private security business shall be exempt from further
 480 licensure under this chapter and shall be permitted to carry a firearm without obtaining
 481 any weapons permit from the board; provided, however, that such licensed private
 482 detective business or private security business shall be required to register such employee
 483 or independent contractor with the board.

484 (c) This chapter shall not prevent the local authorities of any municipality or county, by
 485 ordinance and within the exercise of the police power of such municipality or county, from
 486 imposing local regulations upon any street patrol, special officer, or person furnishing
 487 street patrol service, including regulations requiring registration with an agency to be
 488 designated by such municipality or county.

489 (d) ~~This~~ The provisions of this chapter regarding private detective and private security
 490 businesses shall not apply to a person or corporation which employs persons who do
 491 private security work in connection with the affairs of such employer only and who have

492 an employer-employee relationship with such employer. Neither such persons or
 493 corporations nor their employees shall be required to register or be licensed under this
 494 chapter, although such persons or corporations or their employees may elect to be licensed
 495 under this chapter."

496 SECTION 12.

497 Said chapter is further amended by adding new Code sections to read as follows:

498 "43-38-17.

499 (a) All individuals licensed or registered under this chapter as locksmiths shall display a
 500 photo identification card on their person at all times when performing locksmith services.
 501 Every photo identification card shall contain the individual's name, the name of the
 502 business, and the locksmith's license number.

503 (b) An identification card for a locksmith shall include the word 'Locksmith.'

504 (c)(1) As used in this subsection, the term 'advertisement' or 'advertising' means and
 505 includes any business card, stationery, brochure, flier, circular, newsletter, facsimile,
 506 form, or printed or published paid advertisement in any media form, directory listing, or
 507 telephone book listing.

508 (2) Any advertisement or advertising, service vehicles, and forms shall include the
 509 license number of the locksmith and the name of the business listed with the board.

510 (3) The board may assess a minimum fine of \$500.00 for the first violation of this
 511 subsection and a minimum fine of \$1,000.00 for each subsequent violation. The penalty
 512 may be sued for and recovered by the board.

513 43-38-18.

514 (a) Any locksmith who knowingly and willfully opens any motor vehicle or residential or
 515 commercial establishment or originates a key for another by any method, whether or not
 516 for compensation, shall make a reasonable attempt to obtain and record the following
 517 information on the work order or sales receipt form:

518 (1) The street address or location of the motor vehicle to be opened, the motor vehicle's
 519 license or vehicle identification number, the street address of the residential or
 520 commercial establishment to be opened, and the signature of the person for whom the
 521 motor vehicle or residential or commercial establishment was opened; and

522 (2) The name, address, telephone number, and driver's license number of the person
 523 requesting the entry service, if appropriate.

524 (b) A copy of each work order or sales receipt form shall be retained for two years and
 525 shall include the name of the person performing the service.

526 (c) All invoices shall be made available to the board, its designee, or law enforcement
527 upon lawful request by law enforcement or a letter from the board or its designee, and the
528 locksmith shall be given ten days to produce the invoice.

529 43-38-19.

530 (a) A person shall not:

531 (1) Act as or offer to act as a locksmith and provide locksmith services unless he or she
532 is a locksmith with a license that has not expired or been revoked or suspended;

533 (2) Advertise that he or she is in the locksmith business or hold himself or herself out to
534 the public as a locksmith unless he or she is a licensed locksmith with a license that has
535 not expired or been revoked or suspended;

536 (3) Obtain ownership or possession of locksmithing tools; bump, change, master,
537 manipulation, or tryout keys; car-opening tools; code-grabbing devices; lock picks;
538 safe-opening tools; or manuals or codebooks in any format, either in person or through
539 an intermediary, mail order, or any other remote procurement method, unless he or she
540 is a locksmith whose license has not expired or been revoked or suspended or is
541 specifically exempted under this chapter;

542 (4) Obtain ownership or possession of car-opening tools, either in person or through an
543 intermediary, mail order, or any other remote procurement method, unless he or she is
544 legitimately employed in and is actively performing duties in the motor vehicle
545 repossession, recovery, repair, or towing business; or

546 (5) Possess locksmithing tools, implements, or outfits unless the person is a bona fide
547 dealer, locksmith, automobile reposessor, motor vehicle recovery or towing service
548 employee, or locking device manufacturer, or such manufacturer's agent, who has a
549 reasonable need to possess locksmithing tools, implements, or outfits for demonstration,
550 testing, and research purposes. Possession by any other person shall be prima-facie
551 evidence of an intent to commit burglary, robbery, or theft.

552 (b) An organization shall not:

553 (1) Provide or offer locksmith services unless such services are or can be provided by a
554 locksmith who possesses a license which has not expired or been revoked or suspended
555 and is employed by the organization or are or can be provided by a locksmith employed
556 by the organization; or

557 (2) Obtain ownership or possession of locksmithing tools; bump, change, master,
558 manipulation, or tryout keys; car-opening tools; code-grabbing devices; lock picks;
559 safe-opening tools; or manuals or codebooks in any format by means of an employee,
560 officer, or other person who violates this Code section.

561 (c) The board may institute proceedings in equity to enjoin any person, partnership,
 562 corporation, or other entity from engaging in any unlawful act enumerated in this Code
 563 section. Such proceedings shall be brought in the name of the state by the board in the
 564 superior court of the county in which the unlawful act occurred or in which the defendant
 565 resides.

566 43-38-20.

567 The board shall maintain a list of the names and addresses of all locksmiths licensed under
 568 this chapter. The list shall be made available by the board to any person upon request and
 569 payment of the required fee.

570 43-38-21.

571 Effective July 1, 2016, no person shall do business in this state as a locksmith without
 572 having obtained the proper license from the board. No person other than a duly licensed
 573 locksmith shall provide locksmith services in this state unless exempted under Code
 574 Section 43-38-22.

575 43-38-22.

576 The portions of this chapter regarding locksmiths shall not apply to:

577 (1) A member of a police department, fire department, or other government agency, in
 578 his or her official line of duty, providing emergency opening services;

579 (2) A sales representative providing a bona fide sales demonstration of products to
 580 locksmiths;

581 (3) An in-store employee of a hardware or do-it-yourself home products sales store
 582 rekeying locks in the store of the employee;

583 (4) A licensed low-voltage contractor installing or servicing electromechanical,
 584 electronic, or electromagnetic devices and peripheral hardware;

585 (5) An individual acquiring or using any key duplication machine or key blanks for
 586 personal use;

587 (6) A property owner or an agent of the property owner maintaining a file of key cutting
 588 data for a master-key system on the property;

589 (7) An employee of a bank, savings and loan, credit union, or trust company providing
 590 safe, safe deposit box, or vault opening or servicing services at his or her place of
 591 employment;

592 (8) An automotive service dealer, a lock manufacturer, or an agent of a lock
 593 manufacturer servicing, installing, repairing, or rebuilding automotive locks;

594 (9) Building trades personnel installing locks or locking devices on a project that requires
595 a building permit; or
596 (10) A tow truck company or a tow truck operator possessing and using car-opening
597 tools necessary to unlock vehicles to facilitate towing."

598 **SECTION 13.**

599 For the purposes of appointing members of the Georgia Board of Private Detective and
600 Security Agencies and Locksmiths, this Act shall become effective upon its approval by the
601 Governor or upon its becoming law without such approval. For all other purposes, this Act
602 shall become effective on July 1, 2016.

603 **SECTION 14.**

604 All laws and parts of laws in conflict with this Act are repealed.