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SENATE BILL NO. 1359

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend and reenact §§ 9.1-138, 9.1-139, 9.1-140, 9.1-143, 54.1-201, and 54.1-1102 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 11 of Title 54.1 an article numbered 5, consisting of sections numbered 54.1-1144 through 54.1-1150, and to repeal § 9.1-140.1 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation; Board for Contractors; regulation of locksmith services.

Patron—Reynolds

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-138, 9.1-139, 9.1-140, 9.1-143, 54.1-201, and 54.1-1102 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 11 of Title 54.1 an article numbered 5, consisting of sections numbered 54.1-1144 through 54.1-1150, as follows:

§ 9.1-138. Definitions.

In addition to the definitions set forth in § 9.1-101, as used in this article, unless the context requires a different meaning:

"Alarm respondent" means an individual who responds to the signal of an alarm for the purpose of detecting an intrusion of the home, business or property of the end user.

"Armed" means a private security registrant who carries or has immediate access to a firearm in the performance of his duties.

"Armed security officer" means a natural person employed to (i) safeguard and protect persons and property or (ii) deter theft, loss, or concealment of any tangible or intangible personal property on the premises he is contracted to protect, and who carries or has access to a firearm in the performance of his duties.

"Armored car personnel" means persons who transport or offer to transport under armed security from one place to another, money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of security and certainty of delivery.

"Business advertising material" means display advertisements in telephone directories, letterhead, business cards, local newspaper advertising and contracts.

"Central station dispatcher" means an individual who monitors burglar alarm signal devices, burglar alarms or any other electrical, mechanical or electronic device used (i) to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; (ii) to prevent or detect intrusion; or (iii) primarily to summon aid for other emergencies.

"Certification" means the method of regulation indicating that qualified persons have met the minimum requirements as private security services training schools, private security services instructors, compliance agents, or certified detector canine handler examiners.

"Compliance agent" means an individual who owns or is employed by a licensed private security services business to ensure the compliance of the private security services business with this title.

"Courier" means any armed person who transports or offers to transport from one place to another documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious services.

"Detector canine" means any dog that detects drugs or explosives or both drugs and explosives.

"Detector canine handler" means any individual who uses a detector canine in the performance of private security duties.

"Detector canine handler examiner" means any individual who examines the proficiency and reliability of detector canines and detector canine handlers in the detection of drugs or explosives or both drugs and explosives.

"Detector canine team" means the detector canine handler and his detector canine performing private security duties.

"Electronic security business" means any person who engages in the business of or undertakes to (i) install, service, maintain, design or consult in the design of any electronic security equipment to an end user; (ii) respond to or cause a response to electronic security equipment for an end user; or (iii) have access to confidential information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

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59 "Electronic security employee" means an individual who is employed by an electronic security
60 business in any capacity which may give him access to information concerning the design, extent, status,
61 password, contact list, or location of an end user's electronic security equipment.

62 "Electronic security equipment" means (i) electronic or mechanical alarm signaling devices including
63 burglar alarms or holdup alarms used to safeguard and protect persons and property; or (ii) cameras used
64 to detect intrusions, concealment or theft, to safeguard and protect persons and property. This shall not
65 include tags, labels, and other devices that are attached or affixed to items offered for sale, library
66 books, and other protected articles as part of an electronic article surveillance and theft detection and
67 deterrence system.

68 "Electronic security sales representative" means an individual who sells electronic security equipment
69 on behalf of an electronic security business to the end user.

70 "Electronic security technician" means an individual who installs, services, maintains or repairs
71 electronic security equipment.

72 "Electronic security technician's assistant" means an individual who works as a laborer under the
73 supervision of the electronic security technician in the course of his normal duties, but who may not
74 make connections to any electronic security equipment.

75 "Employed" means to be in an employer/employee relationship where the employee is providing
76 work in exchange for compensation and the employer directly controls the employee's conduct and pays
77 some taxes on behalf of the employee. The term "employed" shall not be construed to include
78 independent contractors.

79 "End user" means any person who purchases or leases electronic security equipment for use in that
80 person's home or business.

81 "Firearms training verification" means the verification of successful completion of either initial or
82 retraining requirements for handgun or shotgun training, or both.

83 "General public" means individuals who have access to areas open to all and not restricted to any
84 particular class of the community.

85 "~~Key cutting~~" means ~~making duplicate keys from an existing key and includes no other locksmith~~
86 ~~services.~~

87 "License number" means the official number issued to a private security services business licensed by
88 the Department.

89 "~~Locksmith~~" means ~~any individual that performs locksmith services, or advertises or represents to the~~
90 ~~general public that the individual is a locksmith even if the specific term locksmith is substituted with~~
91 ~~any other term by which a reasonable person could construe that the individual possesses special skills~~
92 ~~relating to locks or locking devices, including use of the words lock technician, lockman, safe~~
93 ~~technician, safeman, boxman, unlocking technician, lock installer, lock opener, physical security~~
94 ~~technician or similar descriptions.~~

95 "~~Locksmith services~~" mean ~~selling, servicing, rebuilding, repairing, rekeying, repinning, changing the~~
96 ~~combination to an electronic or mechanical locking device; programming either keys to a device or the~~
97 ~~device to accept electronic controlled keys; originating keys for locks or copying keys; adjusting or~~
98 ~~installing locks or deadbolts, mechanical or electronic locking devices, egress control devices, safes, and~~
99 ~~vaults; opening, defeating or bypassing locks or latching mechanisms in a manner other than intended by~~
100 ~~the manufacturer; with or without compensation for the general public or on property not his own nor~~
101 ~~under his own control or authority.~~

102 "Natural person" means an individual person.

103 "Personal protection specialist" means any individual who engages in the duties of providing close
104 protection from bodily harm to any person.

105 "Private investigator" means any individual who engages in the business of, or accepts employment
106 to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition,
107 or recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to persons or to
108 property; or (iv) evidence to be used before any court, board, officer, or investigative committee.

109 "Private security services business" means any person engaged in the business of providing, or who
110 undertakes to provide, armored car personnel, security officers, personal protection specialists, private
111 investigators, couriers, security canine handlers, security canine teams, detector canine handlers, detector
112 canine teams, alarm respondents, ~~locksmiths~~, central station dispatchers, electronic security employees,
113 electronic security sales representatives or electronic security technicians and their assistants to another
114 person under contract, express or implied.

115 "Private security services instructor" means any individual certified by the Department to provide
116 mandated instruction in private security subjects for a certified private security services training school.

117 "Private security services registrant" means any qualified individual who has met the requirements
118 under this article to perform the duties of alarm respondent, ~~locksmith~~, armored car personnel, central
119 station dispatcher, courier, electronic security sales representative, electronic security technician,
120 electronic security technician's assistant, personal protection specialist, private investigator, security

121 canine handler, detector canine handler, unarmed security officer or armed security officer.

122 "Private security services training school" means any person certified by the Department to provide
123 instruction in private security subjects for the training of private security services business personnel in
124 accordance with this article.

125 "Registration" means a method of regulation whereby certain personnel employed by a private
126 security services business are required to register with the Department pursuant to this article.

127 "Registration category" means any one of the following categories: (i) unarmed security officer and
128 armed security officer/courier, (ii) security canine handler, (iii) armored car personnel, (iv) private
129 investigator, (v) personal protection specialist, (vi) alarm respondent, (vii) central station dispatcher,
130 (viii) electronic security sales representative, (ix) electronic security technician, (x) electronic technician's
131 assistant, *or* (xi) detector canine handler, ~~or (xii) locksmith.~~

132 "Security canine" means a dog that has attended, completed, and been certified as a security canine
133 by a certified security canine handler instructor in accordance with approved Department procedures and
134 certification guidelines. "Security canines" shall not include detector dogs.

135 "Security canine handler" means any individual who utilizes his security canine in the performance of
136 private security duties.

137 "Security canine team" means the security canine handler and his security canine performing private
138 security duties.

139 "Supervisor" means any individual who directly or indirectly supervises registered or certified private
140 security services business personnel.

141 "Unarmed security officer" means a natural person who performs the functions of observation,
142 detection, reporting, or notification of appropriate authorities or designated agents regarding persons or
143 property on the premises he is contracted to protect, and who does not carry or have access to a firearm
144 in the performance of his duties.

145 § 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses.

146 A. No person shall engage in the private security services business or solicit private security business
147 in the Commonwealth without having obtained a license from the Department. No person shall be issued
148 a private security services business license until a compliance agent is designated in writing on forms
149 provided by the Department. The compliance agent shall ensure the compliance of the private security
150 services business with this article and shall meet the qualifications and perform the duties required by
151 the regulations adopted by the Board. A compliance agent shall have either a minimum of (i) three years
152 of managerial or supervisory experience in a private security services business; with a federal, state or
153 local law-enforcement agency; or in a related field or (ii) five years of experience in a private security
154 services business; with a federal, state or local law-enforcement agency; or in a related field.

155 B. No person shall act as private security services training school or solicit students for private
156 security training in the Commonwealth without being certified by the Department. No person shall be
157 issued a private security services training school certification until a school director is designated in
158 writing on forms provided by the Department. The school director shall ensure the compliance of the
159 school with the provisions of this article and shall meet the qualifications and perform the duties
160 required by the regulations adopted by the Board.

161 C. No person shall be employed by a licensed private security services business in the
162 Commonwealth as armored car personnel, courier, armed security officer, detector canine handler,
163 unarmed security officer, security canine handler, private investigator, personal protection specialist,
164 alarm respondent, ~~locksmith~~, central station dispatcher, electronic security sales representative, electronic
165 security technician's assistant, or electronic security technician without possessing a valid registration
166 issued by the Department, except as provided in this article.

167 D. A temporary license may be issued in accordance with Board regulations for the purpose of
168 awaiting the results of the state and national fingerprint search. However, no person shall be issued a
169 temporary license until (i) he has designated a compliance agent who has complied with the compulsory
170 minimum training standards established by the Board pursuant to subsection A of § 9.1-141 for
171 compliance agents, (ii) each principal of the business has submitted his fingerprints for a National
172 Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other
173 requirements of this article and Board regulations.

174 E. No person shall be employed by a licensed private security services business in the
175 Commonwealth unless such person is certified or registered in accordance with this chapter.

176 F. A temporary registration may be issued in accordance with Board regulations for the purpose of
177 awaiting the results of the state and national fingerprint search. However, no person shall be issued a
178 temporary registration until he has (i) complied with, or been exempted from the compulsory minimum
179 training standards established by the Board, pursuant to subsection A of § 9.1-141, for armored car
180 personnel, couriers, armed security officers, detector canine handlers, unarmed security officers, security
181 canine handlers, private investigators, personal protection specialists, alarm respondents, ~~locksmith~~,

182 central station dispatchers, electronic security sales representatives, electronic security technician's
183 assistants, or electronic security technicians, (ii) submitted his fingerprints to be used for the conduct of
184 a National Criminal Records search and a Virginia Criminal History Records search, and (iii) met all
185 other requirements of this article and Board regulations.

186 G. A temporary certification as a private security instructor or private security training school may be
187 issued in accordance with Board regulations for the purpose of awaiting the results of the state and
188 national fingerprint search. However, no person shall be issued a temporary certification as a private
189 security services instructor until he has (i) met the education, training and experience requirements
190 established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National
191 Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a
192 temporary certification as a private security services training school until (a) he has designated a training
193 director, (b) each principal of the training school has submitted his fingerprints to be used for the
194 conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (c)
195 he has met all other requirements of this article and Board regulations.

196 H. A licensed private security services business in the Commonwealth shall not employ as an
197 unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central
198 station dispatcher, electronic security sales representative, ~~locks~~smith, or electronic security technician,
199 any person who has not complied with, or been exempted from, the compulsory minimum training
200 standards established by the Board, pursuant to subsection A of § 9.1-141, except that such person may
201 be so employed for not more than 90 days while completing compulsory minimum training standards.

202 I. No person shall be employed as an electronic security employee, electronic security technician's
203 assistant, unarmed alarm respondent, ~~locks~~smith, central station dispatcher, electronic security sales
204 representative, electronic security technician or supervisor until he has submitted his fingerprints to the
205 Department to be used for the conduct of a National Criminal Records search and a Virginia Criminal
206 History Records search. The provisions of this subsection shall not apply to an out-of-state central
207 station dispatcher meeting the requirements of subdivision 19 of § 9.1-140.

208 J. The compliance agent of each licensed private security services business in the Commonwealth
209 shall maintain documentary evidence that each private security registrant and certified employee
210 employed by his private security services business has complied with, or been exempted from, the
211 compulsory minimum training standards required by the Board. Before January 1, 2003, the compliance
212 agent shall ensure that an investigation to determine suitability of each unarmed security officer
213 employee has been conducted, except that any such unarmed security officer, upon initiating a request
214 for such investigation under the provisions of subdivision 11 of subsection A of § 19.2-389, may be
215 employed for up to 30 days pending completion of such investigation. After January 1, 2003, no person
216 shall be employed as an unarmed security officer until he has submitted his fingerprints to the
217 Department for the conduct of a National Criminal Records search and a Virginia Criminal History
218 Records search. Any person who was employed as an unarmed security officer prior to January 1, 2003,
219 shall submit his fingerprints to the Department in accordance with subsection B of § 9.1-145.

220 K. No person with a criminal conviction for a misdemeanor involving (i) moral turpitude, (ii) assault
221 and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled
222 substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual
223 behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms, or any
224 felony shall be (a) employed as a registered or certified employee by a private security services business
225 or training school, or (b) issued a private security services registration, certification as an unarmed
226 security officer, electronic security employee or technician's assistant, a private security services training
227 school or instructor certification, compliance agent certification, or a private security services business
228 license, except that, upon written request, the Director of the Department may waive such prohibition.

229 L. The Department may grant a temporary exemption from the requirement for licensure,
230 certification, or registration for a period of not more than 30 days in a situation deemed an emergency
231 by the Department.

232 M. All private security services businesses and private security services training schools in the
233 Commonwealth shall include their license or certification number on all business advertising materials.

234 N. A licensed private security services business in the Commonwealth shall not employ as armored
235 car personnel any person who has not complied with, or been exempted from, the compulsory minimum
236 training standards established by the Board pursuant to subsection A of § 9.1-141, except such person
237 may serve as a driver of an armored car for not more than 90 days while completing compulsory
238 minimum training standards, provided such person does not possess or have access to a firearm while
239 serving as a driver.

240 § 9.1-140. Exceptions from article; training requirements for out-of-state central station dispatchers.

241 The provisions of this article shall not apply to:

242 1. An officer or employee of the United States, the Commonwealth, or a political subdivision of
243 either, while the officer or employee is performing his official duties.

244 2. A person, except a private investigator as defined in § 9.1-138, engaged exclusively in the
 245 business of obtaining and furnishing information regarding an individual's financial rating or a person
 246 engaged in the business of a consumer reporting agency as defined by the Federal Fair Credit Reporting
 247 Act.

248 3. An attorney or certified public accountant licensed to practice in Virginia or his employees.

249 4. The legal owner of personal property which has been sold under any security agreement while
 250 performing acts relating to the repossession of such property.

251 5. A person receiving compensation for private employment as a security officer, or receiving
 252 compensation under the terms of a contract, express or implied, as a security officer, who is also a
 253 law-enforcement officer as defined by § 9.1-101 and employed by the Commonwealth or any of its
 254 political subdivisions.

255 6. Any person appointed under § 46.2-2003 or 56-353 while engaged in the employment
 256 contemplated thereunder, unless they have successfully completed training mandated by the Department.

257 7. Persons who conduct investigations as a part of the services being provided as a claims adjuster,
 258 by a claims adjuster who maintains an ongoing claims adjusting business, and any natural person
 259 employed by the claims adjuster to conduct investigations for the claims adjuster as a part of the
 260 services being provided as a claims adjuster.

261 8. Any natural person otherwise required to be registered pursuant to § 9.1-139 who is employed by
 262 a business that is not a private security services business for the performance of his duties for his
 263 employer. Any such employee, however, who carries a firearm and is in direct contact with the general
 264 public in the performance of his duties shall possess a valid registration with the Department as required
 265 by this article.

266 9. Persons, sometimes known as "shoppers," employed to purchase goods or services solely for the
 267 purpose of determining or assessing the efficiency, loyalty, courtesy, or honesty of the employees of a
 268 business establishment.

269 10. Licensed or registered private investigators from other states entering Virginia during an
 270 investigation originating in their state of licensure or registration when the other state offers similar
 271 reciprocity to private investigators licensed and registered by the Commonwealth.

272 11. Unarmed regular employees of telephone public service companies where the regular duties of
 273 such employees consist of protecting the property of their employers and investigating the usage of
 274 telephone services and equipment furnished by their employers, their employers' affiliates, and other
 275 communications common carriers.

276 12. An end user.

277 13. A material supplier who renders advice concerning the use of products sold by an electronics
 278 security business and who does not provide installation, monitoring, repair or maintenance services for
 279 electronic security equipment.

280 14. Members of the security forces who are directly employed by electric public service companies.

281 15. Any professional engineer or architect licensed in accordance with Chapter 4 (§ 54.1-400 et seq.)
 282 of Title 54.1 to practice in the Commonwealth, or his employees.

283 16. Any person who only performs telemarketing or schedules appointments without access to
 284 information concerning the electronic security equipment purchased by an end user.

285 17. Any certified forensic scientist employed as an expert witness for the purpose of possibly
 286 testifying as an expert witness.

287 18. Members of the security forces who are directly employed by shipyards engaged in the
 288 construction, design, overhaul or repair of nuclear vessels for the United States Navy.

289 19. An out-of-state central station dispatcher employed by a private security services business
 290 licensed by the Department provided he (i) possesses and maintains a valid license, registration, or
 291 certification as a central station dispatcher issued by the regulatory authority of the state in which he
 292 performs the monitoring duties and (ii) has submitted his fingerprints to the regulatory authority for the
 293 conduct of a national criminal history records search.

294 20. Any person, or independent contractor or employee of any person, who (i) exclusively contracts
 295 directly with an agency of the federal government to conduct background investigations and (ii)
 296 possesses credentials issued by such agency authorizing such person, subcontractor or employee to
 297 conduct background investigations.

298 21. Any person whose occupation is limited to the technical reconstruction of the cause of accidents
 299 involving motor vehicles as defined in § 46.2-100, regardless of whether the information resulting from
 300 the investigation is to be used before a court, board, officer, or investigative committee, and who is not
 301 otherwise a private investigator as defined in § 9.1-138.

302 ~~22. Retail merchants performing locksmith services, selling locks or engaged in key cutting activities~~
 303 ~~conducted at the business location who do not represent themselves to the general public as locksmiths.~~

304 ~~23. Law enforcement, fire, rescue, emergency service personnel, or other persons performing~~

305 locksmith services in an emergency situation without compensation and who do not represent themselves
 306 to the general public as locksmiths.

307 24. Motor vehicle dealers as defined in § 46.2-1500 performing locksmith services who do not
 308 represent themselves to the general public as locksmiths.

309 25. Taxicab and towing businesses performing locksmith services that do not represent themselves to
 310 the general public as locksmiths.

311 26. Contractors licensed under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 performing locksmith
 312 services when acting within the scope of such license who do not represent themselves to the general
 313 public as locksmiths.

314 27. Any contractor as defined in § 54.1-1100 (i) who is exempt from the licensure requirements of
 315 Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, (ii) where the total value referred to in a single contract
 316 or project is less than \$1,000, (iii) when the performance of locksmith services is ancillary to the work
 317 performed by such contractor, and (iv) who does not represent himself to the general public as a
 318 locksmith.

319 § 9.1-143. Private Security Services Advisory Board; membership.

320 The Private Security Services Advisory Board is established as an advisory board within the meaning
 321 of § 2.2-2100, in the executive branch of state government. The Private Security Services Advisory
 322 Board shall consist of ~~15~~13 members as follows: two members shall be private investigators; two shall
 323 be representatives of electronic security businesses; ~~two members shall be representatives of locksmith~~
 324 ~~businesses,~~ three *members*] shall be representatives of private security services businesses providing
 325 security officers, armed couriers or guard dog handlers; one shall be a representative of a private
 326 security services business providing armored car personnel; one shall be a representative of a private
 327 security services business involving personal protection specialists; one shall be a certified private
 328 security services instructor; one shall be a special conservator of the peace appointed pursuant to
 329 § 19.2-13; one shall be a licensed bail bondsman and one shall be a representative of law enforcement.
 330 The Private Security Services Advisory Board shall be appointed by the Criminal Justice Services Board
 331 and shall advise the Criminal Justice Services Board on all issues relating to regulation of private
 332 security services businesses.

333 § 54.1-201. Powers and duties of regulatory boards.

334 The powers and duties of regulatory boards shall be as follows:

335 1. To establish the qualifications of applicants for certification, *registration*, or licensure by any such
 336 board, provided that all qualifications shall be necessary to ensure either competence or integrity to
 337 engage in such profession or occupation.

338 2. To examine, or cause to be examined, the qualifications of each applicant for certification,
 339 *registration*, or licensure within its particular regulatory system, including when necessary the
 340 preparation, administration and grading of examinations.

341 3. To certify, *register*, or license qualified applicants as practitioners of the particular profession or
 342 occupation regulated by such board.

343 4. To levy and collect fees for certification, *registration*, or licensure and renewal that are sufficient
 344 to cover all expenses for the administration and operation of the regulatory board and a proportionate
 345 share of the expenses of the Department of Professional and Occupational Regulation and the Board for
 346 Professional and Occupational Regulation.

347 5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
 348 necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners
 349 and to effectively administer the regulatory system administered by the regulatory board. The regulations
 350 shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.)
 351 and 3 (§ 54.1-300 et seq.) of this title.

352 6. To ensure that inspections are conducted relating to the practice of each practitioner certified,
 353 *registered*, or licensed by the regulatory board to ensure that the practitioner is conducting his practice
 354 in a competent manner and within the lawful regulations promulgated by the board.

355 7. To place a regulant on probation or revoke, suspend or fail to renew a certificate, *registration*, or
 356 license for just causes as enumerated in regulations of the board. Conditions of probation may include,
 357 but not be limited to the successful completion of remedial education or examination.

358 8. To receive complaints concerning the conduct of any person whose activities are regulated by the
 359 regulatory board and to take appropriate disciplinary action if warranted.

360 9. To promulgate canons of ethics under which the professional activities of persons regulated shall
 361 be conducted.

362 § 54.1-1102. Board for Contractors membership; offices; meetings; seal; record.

363 A. The Board for Contractors shall be composed of ~~thirteen~~15 members as follows: one member
 364 shall be a licensed Class A general contractor; the larger part of the business of one member shall be
 365 the construction of utilities; the larger part of the business of one member shall be the construction of
 366 commercial and industrial buildings; the larger part of the business of one member shall be the

367 construction of single-family residences; the larger part of the business of one member shall be the
 368 construction of home improvements; one member shall be a subcontractor as generally regarded in the
 369 construction industry; one member shall be in the business of sales of construction materials and
 370 supplies; one member shall be a local building official; one member shall be a licensed plumbing
 371 contractor; one member shall be a licensed electrical contractor; one member shall be a licensed heating,
 372 ventilation and air conditioning contractor; *two members shall be representatives of locksmith*
 373 *businesses*; and two members shall be citizen members. The terms of the Board members shall be four
 374 years.

375 The Board shall meet at least four times each year, once in January, April, July and October, and at
 376 such other times as may be deemed necessary. Annually, the Board shall elect from its membership a
 377 chairman and a vice-chairman to serve for a one-year term. ~~Seven~~ *Eight* members of the Board shall
 378 constitute a quorum.

379 The Board shall promulgate regulations not inconsistent with statute necessary for the licensure of
 380 contractors and tradesmen and the certification of backflow prevention device workers, and for the
 381 relicensure of contractors and tradesmen and for the recertification of backflow prevention device
 382 workers, after license or certificate suspension or revocation. The Board shall include in its regulations a
 383 requirement that as a condition for initial licensure as a contractor, the designated employee or a
 384 member of the responsible management personnel of the contractor shall have successfully completed a
 385 Board-approved basic business course, which shall not exceed eight hours of classroom instruction.

386 The Board may adopt regulations requiring all Class A, B, and C residential contractors, excluding
 387 subcontractors to the contracting parties and those who engage in routine maintenance or service
 388 contracts, to use legible written contracts including the following terms and conditions:

- 389 1. General description of the work to be performed;
- 390 2. Fixed price or an estimate of the total cost of the work, the amounts and schedule of progress
 391 payments, a listing of specific materials requested by the consumer and the amount of down payment;
- 392 3. Estimates of time of commencement and completion of the work; and
- 393 4. Contractor's name, address, office telephone number and license or certification number and class.

394 In transactions involving door-to-door solicitations, the Board may require that a statement of
 395 protections be provided by the contractor to the homeowner, consumer or buyer, as the case may be.

396 The Board shall adopt a seal with the words "Board for Contractors, Commonwealth of Virginia."
 397 The Director shall have charge, care and custody of the seal.

398 B. The Director shall maintain a record of the proceedings of the Board.

399 *Article 5.*
 400 *Locksmiths.*

401 *§ 54.1-1144. Definitions.*

402 *As used in this article, unless the context requires a different meaning:*

403 *"Key cutting" means making duplicate keys from an existing key and includes no other locksmith*
 404 *services.*

405 *"Locksmith" means any individual who performs locksmith services, or advertises or represents to the*
 406 *general public that the individual is a locksmith even if the specific term locksmith is substituted with*
 407 *any other term by which a reasonable person could construe that the individual possesses special skills*
 408 *relating to locks or locking devices, including use of the words lock technician, lockman, safe*
 409 *technician, safeman, boxman, unlocking technician, lock installer, lock opener, physical security*
 410 *technician or similar descriptions.*

411 *"Locksmith services business" means selling, servicing, rebuilding, repairing, rekeying, repinning,*
 412 *changing the combination to an electronic or mechanical locking device; programming either keys to a*
 413 *device or the device to accept electronic controlled keys; originating keys for locks or copying keys;*
 414 *adjusting or installing locks or deadbolts, mechanical or electronic locking devices, egress control*
 415 *devices, safes, and vaults; opening, defeating or bypassing locks or latching mechanisms in a manner*
 416 *other than intended by the manufacturer; with or without compensation for the general public or on*
 417 *property not his own nor under his own control or authority.*

418 *"Registration" means a method of regulation whereby an individual employed by a locksmith services*
 419 *business is required to register with the Board pursuant to this article.*

420 *§ 54.1-1145. Necessity for license and registration.*

421 A. *No person shall engage in the locksmith services business or solicit locksmith services business in*
 422 *the Commonwealth without having obtained a license from the Board.*

423 B. *No person shall be employed by a licensed locksmith services business in the Commonwealth as a*
 424 *locksmith without possessing a valid registration issued by the Board, except as provided in this article.*

425 *§ 54.1-1146. Exemptions.*

426 *The provisions of this article shall not apply to:*

- 427 1. *Retail merchants performing locksmith services, selling locks or engaged in key cutting activities*

428 conducted at the business location who do not represent themselves to the general public as locksmiths.

429 2. Law enforcement, fire, rescue, emergency service personnel, or other persons performing locksmith
430 services in an emergency situation without compensation and who do not represent themselves to the
431 general public as locksmiths.

432 3. Motor vehicle dealers as defined in § 46.2-1500 performing locksmith services who do not
433 represent themselves to the general public as locksmiths.

434 4. Taxicab and towing businesses performing locksmith services that do not represent themselves to
435 the general public as locksmiths.

436 5. Contractors performing locksmith services when acting within the scope of such license who do
437 not represent themselves to the general public as locksmiths.

438 6. Any contractor (i) where the total value referred to in a single contract or project is less than
439 \$1,000, (ii) when the performance of locksmith services is ancillary to the work performed by such
440 contractor, and (iii) who does not represent himself to the general public as a locksmith.

441 § 54.1-1147. Application for licensure; examinations; issuance of waiver; special provisions.

442 A. Any person desiring to be licensed as a locksmith services business shall file a written application
443 on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board
444 pursuant to § 54.1-201; however, such fee shall not exceed \$200. The application shall contain, at a
445 minimum, the applicant's name, place of employment, and business address; and information on the
446 knowledge, skills, abilities and education or training of the applicant. If the application is satisfactory to
447 the Board, the applicant shall be required by Board regulations to take an oral or written examination
448 to determine his general knowledge of the locksmith services unless he is exempt pursuant to subsection

449 C. If the applicant successfully completes the examination, a license as a locksmith services business
450 shall be issued.

451 B. Any individual desiring to be registered as a locksmith shall file a written application on a form
452 prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to
453 § 54.1-201; however, such fee shall not exceed \$200. If the application is satisfactory to the Board, the
454 applicant shall be required by Board regulations to take an oral or written examination to determine his
455 general knowledge of the locksmith services unless he is exempt pursuant to subsection C. If the
456 applicant successfully completes the examination, a registration as a locksmith shall be issued.

457 C. Notwithstanding any other provision of this article, unless an applicant is found by the Board to
458 have engaged in any act that would constitute grounds for disciplinary action, the Board shall issue a
459 license or registration, without examination, to any applicant who provides satisfactory proof to the
460 Board of (i) having been actively and continuously providing locksmith services immediately prior to
461 July 1, 2008, for at least two years, (ii) having been issued a valid license as a private security services
462 business to engage in the business of providing locksmith services by the Department of Criminal Justice
463 Services, or (iii) having a valid registration issued as a locksmith by the Department of Criminal Justice
464 Services.

465 § 54.1-1148. Expiration and renewal of license.

466 A. A license as a locksmith services business issued pursuant to this article shall expire five years
467 after its date of issuance and shall become invalid on that date unless renewed, subject to approval of
468 the Board. Application for renewal shall be made as provided by Board regulations and shall be
469 accompanied by a fee set by the Board pursuant to § 54.1-201.

470 B. A registration as a locksmith issued pursuant to this article shall expire five years after its date of
471 issuance and shall become invalid on that date unless renewed, subject to approval of the Board.
472 Application for renewal shall be made as provided by Board regulations and shall be accompanied by a
473 fee set by the Board pursuant to § 54.1-201.

474 § 54.1-1149. Grounds for denial or revocation of license or registration.

475 The Board shall have the power to require remedial education and to suspend, revoke or deny
476 renewal of the license of any locksmith services business or the registration of any locksmith who is
477 found to be in violation of the statutes or regulations governing the practice of locksmith services in the
478 Commonwealth.

479 § 54.1-1150. Prohibited acts.

480 A. Practicing or attempting to practice as a locksmith services business without holding a valid
481 license or as a locksmith without holding a valid registration, except as provided for in this article, is
482 prohibited and shall constitute the commission of a Class 1 misdemeanor.

483 B. No person shall represent himself as a locksmith services business unless he has been licensed by
484 the Board. Any person engaging or offering to engage in locksmith services business activities within the
485 meaning of this article who, through verbal claim, sign, advertisement, or letterhead, represents himself
486 as a locksmith services business without holding such a license from the Board shall be guilty of a
487 Class 1 misdemeanor.

488 C. No person shall represent himself as a locksmith unless he has been registered by the Board. Any
489 person engaging in or offering to perform services as a locksmith within the meaning of this article

490 *who, through verbal claim, sign, advertisement, or letterhead, represents himself as a locksmith without*
491 *holding such a registration from the Board shall be guilty of a Class 1 misdemeanor.*

492 *D. No person shall be entitled to assert the lack of licensure or registration as required by this*
493 *article as a defense to any action at law or suit in equity if the party who seeks to recover from such*
494 *person gives substantial performance within the terms of the contract in good faith and without actual*
495 *knowledge of the licensure or registration requirements of this article.*

496 **2. That the Board for Contractors shall promulgate regulations to implement the provisions of**
497 **this act to be effective within 280 days of its enactment.**

498 **3. That any license issued to a locksmith services business or registration issued to a locksmith by**
499 **the Department of Criminal Justice Services shall remain in effect until a license or registration is**
500 **issued by the Board for Contractors pursuant to the provisions of this act.**

501 **4. That as of July 1, 2009, the Board for Contractors shall be deemed successor in interest to the**
502 **Department of Criminal Justice Services to the extent that this act transfers powers and duties.**

503 **5. That all rules and regulations adopted by the Department of Criminal Justice Services that are**
504 **in effect as of July 1, 2009, and that pertain to the subject of this act, shall remain in full force**
505 **and effect until altered, amended, or rescinded by the Board for Contractors.**

506 **6. That § 9.1-140.1 of the Code of Virginia is repealed.**

INTRODUCED

SB1359