

Business and Labor Committee

Nebraska Legislature

LR 357

Interim Study to review Occupational Regulations for
Locksmiths

Report as required by Neb. Rev. Stat. § 84-948

One Hundred Sixth Legislature

Second Session

Committee Members

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Occupational Board Reform Act

The Legislature passed the Occupational Board Reform Act in 2018 (Neb. Rev. Stat. §§ 84-901 to 84-920). The act requires that:

“Beginning in 2019, each standing committee of the Legislature shall annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report electronically to the Clerk of the Legislature by December 15 of each year as provided in this section. Each committee shall complete this process for all occupational regulations within its jurisdiction within five years and every five years thereafter. Each report shall include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified.” (Neb. Rev. Stat. § 84-948)

There were five such occupational regulations identified under the jurisdiction of the Business and Labor Committee.¹ Therefore, the committee selects one occupational licensing regulation to review each year in the five year period. For 2020, the committee selected to review locksmith licenses and introduced LR 357 to conduct the study.

Locksmiths are required to register with the county clerk in the county where the locksmith's business is located (Neb. Rev. Stat. § 28-1402). The Nebraska Association of County Officials (NACO) sent out a survey to the county clerks to gather data for this report. The survey results are attached as an appendix to this report.

¹ (1) Employment Agent; (2) Boiler/Pressure Vessel Inspector; (3) Locksmith; (4) Professional Employer Organization; and (5) Contractor/Sub-Contractor

Committee Findings

Neb. Rev. Stat. § 84-948 requires the report to include the following with answers in bold:

(3) A committee's report shall include, but not be limited to, the following:

(a) The title of the regulated occupation and the name of the occupational board responsible for enforcement of the occupational regulations;

Locksmiths; No occupational board as they are instead licensed by the county clerk in which they are doing business.

(b) The statutory citation or other authorization for the creation of the occupational regulations and occupational board;

Locksmith registration is required by Neb. Rev. Stat. §§ 28-1402 and 28-1403

(c) The number of members of the occupational board and how the members are appointed;

No board exists.

(d) The qualifications for membership on the occupational board;

N/A

(e) The number of times the occupational board is required to meet during the year and the number of times it actually met;

N/A

(f) Annual budget information for the occupational board for the five most recently completed fiscal years;

N/A

(g) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, occupational licenses, and registrations the occupational board has issued, revoked, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties;

Each county issues licenses independently. Many counties have not issued any locksmith licenses in the past five years, although several have indicated that they have issued one to four licenses, with a couple counties indicated they issued five to ten, and one county indicated that they issued more than 15 in the last five years. No counties have reported revoking any locksmith licenses, and it is not clear if the statute gives them the power to do so.

(h) A review of the basic assumptions underlying the creation of the occupational regulations;

It is a Class III misdemeanor to sell or possess locksmith equipment unless a person is a locksmith or falls into another exemption. See Neb. Rev. Stat. § 28-1316. It is likely that this is to protect the public from potential theft.

(i) A statement from the occupational board on the effectiveness of the occupational regulations; and

N/A

(j) A comparison of whether and how other states regulate the occupation.

Currently fifteen states license locksmiths: Alabama, California, Connecticut, Illinois, Louisiana, Maryland, Nebraska, New Jersey, Nevada, North Carolina, Oklahoma, Oregon, Tennessee, Texas, and Virginia.² Different states have different requirements for licensure.

(4) Subject to subsection (5) of this section, each committee shall also analyze, and include in its report, whether the occupational regulations meet the policies stated in section 84-946 considering the following recommended courses of action for meeting such policies:

The regulations appear to be consistent with Neb. Rev. Stat. § 84-946

(a) If the need is to protect consumers against fraud, the likely recommendation will be to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific goods or services;

N/A

² <http://aloea.org/legislation/aloea-legislation.html>

(b) If the need is to protect consumers against unclean facilities or to promote general health and safety, the likely recommendation will be to require periodic inspections of such facilities;

N/A

(c) If the need is to protect consumers against potential damages from failure by providers to complete a contract fully or up to standards, the likely recommendation will be to require that providers be bonded;

N/A

(d) If the need is to protect a person who is not party to a contract between the provider and consumer, the likely recommendation will be to require that the provider have insurance;

N/A

(e) If the need is to protect consumers against potential damages by transient providers, the likely recommendation will be to require that providers register their businesses with the Secretary of State;

This is very similar to the current requirements except that the locksmiths register with the county clerk rather than the Secretary of State. This may be something worth changing in order to provide a central registry as opposed to the county-by-county approach.

(f) If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the providers' knowledge, the likely recommendation will be to enact government certification; and

N/A

(g) If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's inability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the likely recommendation will be to enact an occupational license.

N/A

(5) If a lawful occupation is subject to the Nebraska Regulation of Health Professions Act, the analysis under subsection (4) of this section shall be made using the least restrictive method of regulation as set out in section 71-6222.

N/A

(6) In developing recommendations under this section, the committee shall review any report issued to the Legislature pursuant to the Nebraska Regulation of Health Professions Act, if applicable, and consider any findings or recommendations of such report related to the occupational regulations under review.

N/A

(7) If the committee finds that it is necessary to change occupational regulations, the committee shall recommend the least restrictive regulation consistent with the public interest and the policies in this section and section 84-946.

Conclusion

Currently in order to be a registered locksmith in Nebraska an individual or business must pay a fee of five dollars and fill out a form with: (1) the name and social security number of the applicant, (2) the name of the applicant's business, (3) the address of such place of business, (4) whether the applicant has been convicted of violating the laws of any state, other than minor traffic violations, and (5) the name and address of three individuals who have knowledge of the applicant's character, experience, and ability. (Neb. Rev. Stat. § 28-1403).

Some counties also perform a background check on applicants in coordination with their county Sheriff's office, although this is not required by statute.

The current requirements are minimal and appear to be consistent with the policy goals of the statute. This report does not make any specific recommendations on changing the licensing for locksmiths but included below are some potential policy suggestions to update and clarify the statute from the experiences of the county clerks. They are provided for your independent consideration.

Some suggestions on improving the law from the county clerks from the NACO survey are:

- Changing the licensure to the county Sheriff's office, or a state agency such as the Secretary of State.
- Increasing the fee or allowing the county to charge for the cost of a background check if one is done.
- Clarifying the ability to enforce or deny a permit.
- A renewal requirement so the county can know if the individual is still a locksmith and still practicing within the county.
- What kind of certificate could be clarified. For example, a certificate that hangs on the wall or a pocket card that locksmiths can show to their customers as a security measure. Some current state licensures require the holder to have a pocket card or to display a certificate at their place of business.

Appendix

Survey Results from NACO

1. How many licensed locksmiths are in your county?	2. How many locksmith licenses has your county issued in the past five years?	3. How many locksmith licenses have been revoked in your county in the past five years?	4. How many locksmith licenses have been denied in your county in the last five years?	5. Have any penalties been assessed against locksmiths in your county in the last five years?	6. Locksmith license applications must include the name and address of three individuals who have knowledge of the applicant's character, experience, and ability. Some counties use this information to perform background checks on locksmith license applicants; others do not. Do you perform any kind of examination of a locksmith applicant's background?	If yes, what do you do?	7. Do you see any harm in repealing locksmith licensing statutes?	Please feel free to share your thoughts about the process or experiences you have had.
don't know	0	0	0	0		Ask sheriff or State Patrol to conduct background check		County hasn't issued locksmith permits
0	0	0	0	0	Yes		No	
5-10	5-10	don't know	don't know	don't know	No	Other	No	
don't know	1-4	don't know	don't know	don't know	No		No	
0	0	0	0	0	No		No	
0	0	0	0	0	No		No	
0	0	0	0	0	No		No	
0	0	0	0	0	No		No	
1-4	0	0	0	0	No		No	I really have no opinion on this matter. Confused as to why it is handled through the county clerk's office to begin with. We have had the same one for years and after being here 2 terms still have never personally encountered this transaction.
1-4	0	0	0	0	No	Ask sheriff or State Patrol to conduct background check	No	I have no opinion on repealing the statutes. If I had to have an opinion I would say if it is working why change it.
1-4	0	0	0	0	Yes		No	I have never understood why County Clerk's issue Locksmith licenses, why not the Sheriff so criminal background checks can be done.
0	0	0	0	0	No	Ask sheriff or State Patrol to conduct background check	No	
more than 15	more than 15	don't know	1-4	don't know	Yes		No	Locksmith fee is only \$5.00. I agree to have increasing fees to cover the cost of a background check.
1-4	1-4	0	0	0	No		No	

