

BILL ANALYSIS

C.S.S.B. 1252
By: Armbrister
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, the alarm system industry is regulated under Chapter 1702 (Private Security) of the Occupations Code. However, the alarm system industry has changed since the provisions to regulate this industry were enacted. C.S.S.B. 1252 amends the Occupations Code to reflect advances in security alarm system technology.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Private Security in SECTION 10 (Section 1702.236, Occupations Code) and SECTION 15 of the bill.

ANALYSIS

SECTION 1. Amends Section 1702.002, Occupations Code, as follows:

- (a-1) Redefine "alarm system."
- (a-6) Redefines "detection device."
- (6-a) Defines "electronic access control device."

SECTION 2. Amends Subchapter D, Chapter 1702, Occupations Code, by adding 1702.0635, to prohibit the Texas Commission on Private Security (commission) from adopting rules or from establishing unduly restrictive experience or education requirements that limit a person's ability to be licensed as an electronic access control device company or be registered as an electronic access control device installer.

SECTION 3. Amends Subchapter F, Chapter 1702, Occupations Code, by adding Section 1702.1025, as follows:

Sec. 1702.1025. ELECTRONIC ACCESS CONTROL DEVICE COMPANY LICENSE REQUIRED; SCOPE OF LICENSE. (a) Prohibits a person from taking certain actions, unless the person holds a license as an electronic access control device company.

- (b) Prohibits a person licensed as an electronic access control device company from installing alarm systems unless otherwise licensed or registered to install alarm systems under this chapter.

SECTION 4. Amends Sections 1702.103(a) and (b), Occupations Code, as follows:

- (a) Includes a new class of license classifications, Class D.
- (b) Makes a conforming change.

SECTION 5. Amends Subchapter F, Chapter 1702, Occupations Code, by adding Sections 1702.1055 and 1702.1056, as follows:

Sec. 1702.1055. ELECTRONIC ACCESS CONTROL DEVICE COMPANY. Provides that a person acts as an electronic access control device company for the purpose of this chapter if the person installs or maintains an electronic access control device.

Sec. 1702.1056. LOCKSMITH COMPANY. Provides that a person acts as a locksmith company for the purpose of this chapter if the person installs and maintains mechanical security devices, including deadbolts and locks and cuts keys for mechanical security devices. The person must advertise services offered by the company using the term "locksmith" or include the term "locksmith" in the company name.

SECTION 6. Updates outdated references to agencies and codes.

SECTION 7. Amends Section 1702.221, Occupations Code, to require an individual to register with the commission as provided by commission rule if the individual is employed as an electronic access control device installer or locksmith.

SECTION 8. Amends Subchapter J, Chapter 1702, Occupations Code, by adding Section 1702.2225, as follows:

Sec. 1702.2225. LOCKSMITH COMPANY REGISTRATION REQUIRED. Prohibits a person from taking certain actions, unless the person is registered as a locksmith company.

SECTION 9. Amends Subchapter J, Chapter 1702, Occupations Code, by adding Sections 1702.2226 and 1702.2227, as follows:

Sec. 1702.2226. ELECTRONIC ACCESS CONTROL DEVICE INSTALLER. (a) Provides that an individual acts as an electronic access control device installer for purposes of this chapter if the individual installs, maintains, or repairs an electronic access control device.

(b) Prohibits a person registered as an electronic access control device installer from installing alarm systems unless the person is registered under this chapter as an alarm system installer.

Sec. 1702.2227. LOCKSMITH. Provides that an individual acts as a locksmith for the purposes of this chapter if the person sells, installs, or maintains mechanical security devices, including deadbolts and locks, and advertises or offers services to the public or represents to the public that the person is a locksmith.

SECTION 10. Amends Subchapter J, Chapter 1702, Occupations Code, by adding Section 1702.236, as follows:

Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) Requires the commission to require an individual who applies for registration as an electronic access control device installer to pass an examination given by the commission or a person approved by the commission. Requires the examination to cover material related to access control.

(b) Requires the commission, before September 1, 2005, to allow an electronic access control device installer to obtain or renew a certificate of registration by fulfilling the requirements of a commission-approved, industry-based educational training program. Provides that this subsection expires September 1, 2006.

- (c) Authorizes the commission, on and after September 1, 2005, by rule to allow an electronic access control device installer to obtain or renew a certificate of registration by fulfilling the requirements of a commission-approved, industry-based educational training program.
- (d) Authorizes a party who asserts that the commission has adopted a rule in violation of Subsection (b) or (c) to appeal to the attorney general for a determination of whether the rule violates the subsection because the rule does not comply with reasonable business practices. Requires the attorney general to make a determination on an appeal submitted under this section not later than the 90th day after the date the appeal is submitted or within a reasonable time as circumstances require. Prohibits the challenged rule from taking effect until after the attorney general makes a determination. Provides that this subsection expires September 1, 2007.

SECTION 11. Amends Section 1702.223, Occupations Code, as follows:

- (a) Provides that an individual acts as an alarm systems installer for purposes of this chapter if the individual installs, maintains, or repairs an alarm system or detection device.
- (b) Authorizes an alarm systems installer to install, maintain, or repair an electronic access control device.

SECTION 12. Amends Section 1702.239(a), Occupations Code, to authorize the commission to approve only nationally recognized training programs that consist of at least 16 hours, rather than 20 hours, of classroom study in the areas of work allowed by the registration.

SECTION 13. Amends Section 1702.324(b), Occupations Code, to provide that this chapter does not apply to a manufacturer or a manufacturer's authorized distributor who sells equipment to a license holder or registrant that is used in the operations for which the person is required to be licensed or registered. Provides that this chapter does not apply to a person who is a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, Occupations Code, rather than the Texas Engineering Practice Act (Article 3271(a), V.T.C.S.), including forensic analysis, burglar alarm system engineering, and necessary data collection. Adds text providing that this chapter does not apply to a locksmith or a person who on the person's own property or on property owned or managed by their employer installs, changes, or repairs a mechanical security device, repairs an electronic security device, or cuts or makes a key for a security device.

SECTION 14. Amends Section 1702.328, Occupations Code, to provide that this chapter does not apply to a person in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device if the person does not service or maintain alarm systems, electronic access control devices, or locks, rather than burglar alarms. This chapter does not apply to a person who sells exclusively over the counter or by mail order alarm systems, electronic access control devices, locks, or detection devices, rather than signal devices, burglary alarms, television cameras, still cameras, or other electrical, mechanical, or electronic device used for preventing or detecting burglary, theft, or other losses.

SECTION 15. (a) Requires the commission, by January 1, 2004, to adopt rules necessary to administer the changes made by this Act to Chapter 1702, Occupations Code.

- (b) Provides that notwithstanding Sections 1702.1025 and 1702.2225, Occupations Code, as added by this Act, and Section 1702.221, Occupations Code, as amended by this Act, a person is not required to hold a license as an electronic access control device installer, a locksmith company, or a locksmith before September 1, 2004.

SECTION 16. Sections 1702.1025 and 1702.2225, Occupations Code, as added by this Act, take effect January 1, 2004. All other Sections of this Act take effect September 1, 2003.

EFFECTIVE DATE

This Act takes effect September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by adding a new provision that a person acts as a locksmith company if the person sells, installs, or maintains mechanical security devices, including deadbolts and locks, and advertises their services using the term locksmith or includes that in their company name.

The substitute modifies the original by exempting from licensure a person who on the person's own property or on property owned or managed by their employer installs, changes, or repairs a mechanical security device, repairs an electronic security device, or cuts or makes a key for a security device.