

By: Driver

H.B. No. 2079

Substitute the following for H.B. No. 2079:

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C.S.H.B. No. 2079

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain activities associated with providing private security.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1702.002, Occupations Code, is amended by amending Subdivisions (1) and (6) and adding Subdivision (6-a) to read as follows:

(1) "Alarm system" means:

(A) electronic equipment and devices designed to detect or signal:

(i) an unauthorized entry or attempted entry of a person or object into a residence, business, or area monitored by the system; or

(ii) the occurrence of a robbery or other emergency;

(B) electronic equipment and devices using a computer or data processor designed to control the access of a person, vehicle, or object through a door, gate, or entrance into the controlled area of a residence or business; or

(C) a television camera or still camera system that records, archives, or monitors property or individuals in a public or private area of a residence or business ~~[an alarm system, burglar alarm signal device, burglar alarm, robbery alarm, television camera, or still camera used to signal the presence of an~~

1 ~~emergency to which law enforcement or emergency services are~~
2 ~~expected to respond].~~

3 (6) "Detection device" means an electronic device used
4 as a part of an alarm system [~~a burglar or robbery alarm~~], including
5 a control, communications device, motion detector, door or window
6 switch, sound detector, vibration detector, light beam, pressure
7 mat, wiring, or similar device.

8 (6-a) "Electronic access control device" means an
9 electronic, electrical, or computer-based device that allows
10 access to a controlled area of a business, but that is not monitored
11 and does not send a signal to which law enforcement or emergency
12 services respond. The term does not include a mechanical device,
13 such as a deadbolt or lock.

14 SECTION 2. Subchapter D, Chapter 1702, Occupations Code, is
15 amended by adding Section 1702.0635 to read as follows:

16 Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES. The
17 commission may not adopt rules or establish unduly restrictive
18 experience or education requirements that limit a person's ability
19 to be licensed as an electronic access control device company or be
20 registered as an electronic access control device installer.

21 SECTION 3. Subchapter F, Chapter 1702, Occupations Code, is
22 amended by adding Section 1702.1025 to read as follows:

23 Sec. 1702.1025. ELECTRONIC ACCESS CONTROL DEVICE COMPANY
24 LICENSE REQUIRED; SCOPE OF LICENSE. (a) Unless the person holds a
25 license as an electronic access control device company, a person
26 may not:

27 (1) act as an electronic access control device

1 company;

2 (2) offer to perform the services of an electronic
3 access control device company; or

4 (3) engage in business activity for which a license is
5 required under this chapter.

6 (b) A person licensed as an electronic access control device
7 company may not install alarm systems unless otherwise licensed or
8 registered to install alarm systems under this chapter.

9 SECTION 4. Sections 1702.103(a) and (b), Occupations Code,
10 are amended to read as follows:

11 (a) The license classifications are:

12 (1) Class A: investigations company license, covering
13 operations of an investigations company;

14 (2) Class B: security services contractor license,
15 covering operations of a security services contractor; ~~and~~

16 (3) Class C: covering the operations included within
17 Class A and Class B; and

18 (4) Class D: electronic access control device license,
19 covering operations of an electronic access control device company.

20 (b) A Class A, B, ~~or~~ C, or D license does not authorize the
21 license holder to perform a service for which the license holder has
22 not qualified. A person may not engage in an operation outside the
23 scope of that person's license. The commission shall indicate on
24 the license the services the license holder is authorized to
25 perform. The license holder may not perform a service unless it is
26 indicated on the license.

27 SECTION 5. Subchapter F, Chapter 1702, Occupations Code, is

1 amended by adding Sections 1702.1055 and 1702.1056 to read as
2 follows:

3 Sec. 1702.1055. ELECTRONIC ACCESS CONTROL DEVICE COMPANY. A
4 person acts as an electronic access control device company for the
5 purposes of this chapter if the person installs or maintains an
6 electronic access control device.

7 Sec. 1702.1056. LOCKSMITH COMPANY. A person acts as a
8 locksmith company for the purposes of this chapter if the person:

9 (1) installs and maintains mechanical security
10 devices, including deadbolts and locks; and

11 (2) cuts keys for mechanical security devices.

12 SECTION 6. Section 1702.124(a), Occupations Code, is
13 amended to read as follows:

14 (a) The commission may not issue a license unless the
15 applicant files with the commission:

16 (1) evidence of a general liability insurance policy
17 on a certificate of insurance form prescribed by the Texas
18 Department of Insurance [~~commission~~] and countersigned by an
19 insurance agent licensed in this state; or

20 (2) a certificate of insurance for surplus lines
21 coverage obtained under Chapter 981 [~~Article 1.14-2~~], Insurance
22 Code, through a licensed Texas surplus lines agent resident in this
23 state.

24 SECTION 7. Section 1702.221, Occupations Code, is amended
25 to read as follows:

26 Sec. 1702.221. REGISTRATION REQUIRED. An individual must
27 register with the commission as provided by commission rule if the

1 individual:

2 (1) is employed as an alarm systems installer, alarm
3 systems monitor, electronic access control device installer,
4 locksmith, dog trainer, manager or branch office manager,
5 noncommissioned security officer, private investigator, private
6 security consultant, or security salesperson; or

7 (2) is an owner, officer, partner, or shareholder of a
8 license holder.

9 SECTION 8. Subchapter J, Chapter 1702, Occupations Code, is
10 amended by adding Section 1702.2225 to read as follows:

11 Sec. 1702.2225. LOCKSMITH COMPANY REGISTRATION REQUIRED.
12 Unless the person is registered as a locksmith company, a person may
13 not:

14 (1) act as a locksmith company;

15 (2) offer to perform the services of a locksmith
16 company; or

17 (3) engage in business activity for which registration
18 is required under this chapter.

19 SECTION 9. Subchapter J, Chapter 1702, Occupations Code, is
20 amended by adding Sections 1702.2226 and 1702.2227 to read as
21 follows:

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

27 (b) A person registered as an electronic access control

1 device installer may not install alarm systems unless the person is
2 registered under this chapter as an alarm systems installer.

3 Sec. 1702.2227. LOCKSMITH. An individual acts as a
4 locksmith for the purposes of this chapter if the person installs
5 and maintains mechanical security devices, including deadbolts and
6 locks, and cuts keys for mechanical security devices.

7 SECTION 10. Subchapter J, Chapter 1702, Occupations Code,
8 is amended by adding Section 1702.236 to read as follows:

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

15 (b) Before September 1, 2005, the commission shall allow an
16 electronic access control device installer to obtain or renew a
17 certificate of registration by fulfilling the requirements of a
18 commission-approved, industry-based educational training program.
19 This subsection expires September 1, 2006.

20 (c) On and after September 1, 2005, the commission by rule
21 may allow an electronic access control device installer to obtain
22 or renew a certificate of registration by fulfilling the
23 requirements of a commission-approved, industry-based educational
24 training program.

25 (d) A party who asserts that the commission has adopted a
26 rule in violation of Subsection (b) or (c) may appeal to the
27 attorney general for a determination of whether the rule violates

1 the subsection because the rule does not comply with reasonable
2 business practices. The attorney general shall make a
3 determination on an appeal submitted under this section not later
4 than the 90th day after the date the appeal is submitted or within a
5 reasonable time as circumstances require. The challenged rule may
6 not take effect until after the attorney general makes a
7 determination. This subsection expires September 1, 2007.

8 SECTION 11. Section 1702.223, Occupations Code, is amended
9 to read as follows:

10 Sec. 1702.223. ALARM SYSTEMS INSTALLER. (a) An individual
11 acts as an alarm systems installer for purposes of this chapter if
12 the individual installs, maintains, or repairs an alarm system or
13 detection device.

14 (b) An alarm systems installer may install, maintain, or
15 repair an electronic access control device.

16 SECTION 12. Section 1702.239(a), Occupations Code, is
17 amended to read as follows:

18 (a) The commission may require that an individual employed
19 as an alarm systems installer or security salesperson hold a
20 certification by a commission-approved training program to renew an
21 initial registration. The commission may approve only nationally
22 recognized training programs that consist of at least 16 [~~20~~] hours
23 of classroom study in the areas of work allowed by the registration.
24 To be approved, a training program must offer at least two
25 certification programs each year, sufficient to complete the
26 requirements of this subsection, within 100 miles of each county in
27 the state that has a population of more than 500,000.

1 SECTION 13. Section 1702.324(b), Occupations Code, is
2 amended to read as follows:

3 (b) This chapter does not apply to:

4 (1) a manufacturer or a manufacturer's authorized
5 distributor who sells equipment to a license holder or registrant
6 that is used in the operations for which the person is required to
7 be licensed or registered;

8 (2) a person engaged exclusively in the business of
9 obtaining and providing information to:

10 (A) determine creditworthiness;

11 (B) collect debts; or

12 (C) ascertain the reliability of information
13 provided by an applicant for property, life, or disability
14 insurance or an indemnity or surety bond;

15 (3) a person engaged exclusively in the business of
16 repossessing property that is secured by a mortgage or other
17 security interest;

18 (4) ~~[a locksmith who:~~

19 ~~[(A) does not install or service detection~~
20 ~~devices;~~

21 ~~[(B) does not conduct investigations; and~~

22 ~~[(C) is not a security services contractor;~~

23 ~~[(5)]~~ a person who:

24 (A) is engaged in the business of psychological
25 testing or other testing and interviewing services, including
26 services to determine attitudes, honesty, intelligence,
27 personality, and skills, for preemployment purposes; and

1 (B) does not perform any other service that
2 requires a license under this chapter;

3 (5) [~~(6)~~] a person who:

4 (A) is engaged in obtaining information that is a
5 public record under Chapter 552, Government Code, regardless of
6 whether the person receives compensation;

7 (B) is not a full-time employee, as defined by
8 Section 61.001, Labor Code, of a person licensed under this
9 chapter; and

10 (C) does not perform any other act that requires
11 a license under this chapter;

12 (6) [~~(7)~~] a licensed professional engineer practicing
13 engineering or directly supervising engineering practice under
14 Chapter 1001, Occupations Code [~~The Texas Engineering Practice Act~~
15 ~~(Article 3271a, Vernon's Texas Civil Statutes)~~], including
16 forensic analysis, burglar alarm system engineering, and necessary
17 data collection;

18 (7) [~~(8)~~] an employee of a cattle association who
19 inspects livestock brands under the authority granted to the cattle
20 association by the Grain Inspection, Packers and Stockyards
21 Administration of the United States Department of Agriculture;

22 (8) [~~(9)~~] a landman performing activities in the
23 course and scope of the landman's business;

24 (9) [~~(10)~~] an attorney while engaged in the practice
25 of law;

26 (10) [~~(11)~~] a person who obtains a document for use in
27 litigation under an authorization or subpoena issued for a written

1 or oral deposition; or

2 (11) [~~(12)~~] an admitted insurer, insurance adjuster,
3 agent, or insurance broker licensed by the state, performing duties
4 in connection with insurance transacted by that person.

5 SECTION 14. Section 1702.328, Occupations Code, is amended
6 to read as follows:

7 Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION.

8 This chapter does not apply to:

9 (1) a person who owns and installs a burglar detection
10 or alarm device on the person's own property or, if the person does
11 not charge for the device or the installation, installs the device
12 for the protection of the person's personal property located on
13 another person's property and does not, as a normal business
14 practice, install the devices on the property of another;

15 (2) a person in the business of building construction
16 that installs electrical wiring and devices that may include in
17 part the installation of a burglar alarm or detection device if:

18 (A) the person is a party to a contract that
19 provides that:

20 (i) the installation will be performed
21 under the direct supervision of, and inspected and certified by, a
22 person licensed to install and certify the alarm or detection
23 device; and

24 (ii) the license holder assumes full
25 responsibility for the installation of the alarm or detection
26 device; and

27 (B) the person does not service or maintain alarm

1 systems, electronic access control devices, locks, [burglar
2 alarms] or detection devices;

3 (3) a person who sells or installs automobile burglar
4 alarm devices and who does not perform any other act that requires a
5 license under this chapter; or

6 (4) a person who sells exclusively over the counter or
7 by mail order ~~[burglar]~~ alarm systems, electronic access control
8 devices, locks, or detection [signal] devices~~[, burglary alarms,~~
9 ~~television cameras, still cameras, or other electrical,~~
10 ~~mechanical, or electronic devices used for preventing or detecting~~
11 ~~burglary, theft, or other losses].~~

12 SECTION 15. (a) Not later than January 1, 2004, the Texas
13 Commission on Private Security shall adopt the rules necessary to
14 administer the changes in law made by this Act to Chapter 1702,
15 Occupations Code.

16 (b) Notwithstanding Sections 1702.1025 and 1702.2225,
17 Occupations Code, as added by this Act, and Section 1702.221,
18 Occupations Code, as amended by this Act, a person is not required
19 to hold a license as an electronic access control device company or
20 be registered as an electronic access control device installer, a
21 locksmith company, or a locksmith before September 1, 2004.

22 SECTION 16. (a) Except as provided by Subsection (b) of
23 this section, this Act takes effect September 1, 2003.

24 (b) Sections 1702.1025 and 1702.2225, Occupations Code, as
25 added by this Act, take effect January 1, 2004.