

1-1 By: Armbrister S.B. No. 1252
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 9, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; May 9, 2003, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1252 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of certain activities associated with
1-11 providing private security.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 1702.002, Occupations Code, is amended
1-14 by amending Subdivisions (1) and (6) and adding Subdivision (6-a)
1-15 to read as follows:

1-16 (1) "Alarm system" means:

1-17 (A) electronic equipment and devices designed to
1-18 detect or signal:

1-19 (i) an unauthorized entry or attempted
1-20 entry of a person or object into a residence, business, or area
1-21 monitored by the system; or

1-22 (ii) the occurrence of a robbery or other
1-23 emergency;

1-24 (B) electronic equipment and devices using a
1-25 computer or data processor designed to control the access of a
1-26 person, vehicle, or object through a door, gate, or entrance into
1-27 the controlled area of a residence or business; or

1-28 (C) a television camera or still camera system
1-29 that records, archives, or monitors property or individuals in a
1-30 public or private area of a residence or business [~~an alarm system,~~
1-31 ~~burglar alarm signal device, burglar alarm, robbery alarm,~~
1-32 ~~television camera, or still camera used to signal the presence of an~~
1-33 ~~emergency to which law enforcement or emergency services are~~
1-34 ~~expected to respond].~~

1-35 (6) "Detection device" means an electronic device used
1-36 as a part of an alarm system [~~a burglar or robbery alarm~~], including
1-37 a control, communications device, motion detector, door or window
1-38 switch, sound detector, vibration detector, light beam, pressure
1-39 mat, wiring, or similar device.

1-40 (6-a) "Electronic access control device" means an
1-41 electronic, electrical, or computer-based device that allows
1-42 access to a controlled area of a business, but that is not monitored
1-43 and does not send a signal to which law enforcement or emergency
1-44 services respond. The term does not include a mechanical device,
1-45 such as a deadbolt or lock.

1-46 SECTION 2. Subchapter D, Chapter 1702, Occupations Code, is
1-47 amended by adding Section 1702.0635 to read as follows:

1-48 Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES. The
1-49 commission may not adopt rules or establish unduly restrictive
1-50 experience or education requirements that limit a person's ability
1-51 to be licensed as an electronic access control device company or be
1-52 registered as an electronic access control device installer.

1-53 SECTION 3. Subchapter F, Chapter 1702, Occupations Code, is
1-54 amended by adding Section 1702.1025 to read as follows:

1-55 Sec. 1702.1025. ELECTRONIC ACCESS CONTROL DEVICE COMPANY
1-56 LICENSE REQUIRED; SCOPE OF LICENSE. (a) Unless the person holds a
1-57 license as an electronic access control device company, a person
1-58 may not:

1-59 (1) act as an electronic access control device
1-60 company;

1-61 (2) offer to perform the services of an electronic
1-62 access control device company; or

1-63 (3) engage in business activity for which a license is

2-1 required under this chapter.

2-2 (b) A person licensed as an electronic access control device
2-3 company may not install alarm systems unless otherwise licensed or
2-4 registered to install alarm systems under this chapter.

2-5 SECTION 4. Subsections (a) and (b), Section 1702.103,
2-6 Occupations Code, are amended to read as follows:

2-7 (a) The license classifications are:

2-8 (1) Class A: investigations company license, covering
2-9 operations of an investigations company;

2-10 (2) Class B: security services contractor license,
2-11 covering operations of a security services contractor; ~~and~~

2-12 (3) Class C: covering the operations included within
2-13 Class A and Class B; and

2-14 (4) Class D: electronic access control device license,
2-15 covering operations of an electronic access control device company.

2-16 (b) A Class A, B, ~~C,~~ or D license does not authorize the
2-17 license holder to perform a service for which the license holder has
2-18 not qualified. A person may not engage in an operation outside the
2-19 scope of that person's license. The commission shall indicate on
2-20 the license the services the license holder is authorized to
2-21 perform. The license holder may not perform a service unless it is
2-22 indicated on the license.

2-23 SECTION 5. Subchapter F, Chapter 1702, Occupations Code, is
2-24 amended by adding Sections 1702.1055 and 1702.1056 to read as
2-25 follows:

2-26 Sec. 1702.1055. ELECTRONIC ACCESS CONTROL DEVICE COMPANY.
2-27 A person acts as an electronic access control device company for the
2-28 purposes of this chapter if the person installs or maintains an
2-29 electronic access control device.

2-30 Sec. 1702.1056. LOCKSMITH COMPANY. A person acts as a
2-31 locksmith company for the purposes of this chapter if the person:

2-32 (1) installs and maintains mechanical security
2-33 devices, including deadbolts and locks; and

2-34 (2) cuts keys for mechanical security devices.

2-35 SECTION 6. Subsection (a), Section 1702.124, Occupations
2-36 Code, is amended to read as follows:

2-37 (a) The commission may not issue a license unless the
2-38 applicant files with the commission:

2-39 (1) evidence of a general liability insurance policy
2-40 on a certificate of insurance form prescribed by the Texas
2-41 Department of Insurance ~~commission~~ and countersigned by an
2-42 insurance agent licensed in this state; or

2-43 (2) a certificate of insurance for surplus lines
2-44 coverage obtained under Chapter 981 ~~[Article 1.14-2]~~, Insurance
2-45 Code, through a licensed Texas surplus lines agent resident in this
2-46 state.

2-47 SECTION 7. Section 1702.221, Occupations Code, is amended
2-48 to read as follows:

2-49 Sec. 1702.221. REGISTRATION REQUIRED. An individual must
2-50 register with the commission as provided by commission rule if the
2-51 individual:

2-52 (1) is employed as an alarm systems installer, alarm
2-53 systems monitor, electronic access control device installer,
2-54 locksmith, dog trainer, manager or branch office manager,
2-55 noncommissioned security officer, private investigator, private
2-56 security consultant, or security salesperson; or

2-57 (2) is an owner, officer, partner, or shareholder of a
2-58 license holder.

2-59 SECTION 8. Subchapter J, Chapter 1702, Occupations Code, is
2-60 amended by adding Section 1702.2225 to read as follows:

2-61 Sec. 1702.2225. LOCKSMITH COMPANY REGISTRATION REQUIRED.
2-62 Unless the person is registered as a locksmith company, a person may
2-63 not:

2-64 (1) act as a locksmith company;

2-65 (2) offer to perform the services of a locksmith
2-66 company; or

2-67 (3) engage in business activity for which registration
2-68 is required under this chapter.

2-69 SECTION 9. Subchapter J, Chapter 1702, Occupations Code, is

3-1 amended by adding Sections 1702.2226 and 1702.2227 to read as
 3-2 follows:

3-3 Sec. 1702.2226. ELECTRONIC ACCESS CONTROL DEVICE
 3-4 INSTALLER. (a) An individual acts as an electronic access control
 3-5 device installer for purposes of this chapter if the individual
 3-6 installs, maintains, or repairs an electronic access control
 3-7 device.

3-8 (b) A person registered as an electronic access control
 3-9 device installer may not install alarm systems unless the person is
 3-10 registered under this chapter as an alarm systems installer.

3-11 Sec. 1702.2227. LOCKSMITH. An individual acts as a
 3-12 locksmith for the purposes of this chapter if the person installs
 3-13 and maintains mechanical security devices, including deadbolts and
 3-14 locks, and cuts keys for mechanical security devices.

3-15 SECTION 10. Subchapter J, Chapter 1702, Occupations Code,
 3-16 is amended by adding Section 1702.236 to read as follows:

3-17 Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR
 3-18 ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) The commission
 3-19 shall require an individual who applies for registration as an
 3-20 electronic access control device installer to pass an examination
 3-21 given by the commission or a person approved by the commission. The
 3-22 examination must cover material related to access control.

3-23 (b) Before September 1, 2005, the commission shall allow an
 3-24 electronic access control device installer to obtain or renew a
 3-25 certificate of registration by fulfilling the requirements of a
 3-26 commission-approved, industry-based educational training program.
 3-27 This subsection expires September 1, 2006.

3-28 (c) On and after September 1, 2005, the commission by rule
 3-29 may allow an electronic access control device installer to obtain
 3-30 or renew a certificate of registration by fulfilling the
 3-31 requirements of a commission-approved, industry-based educational
 3-32 training program.

3-33 (d) A party who asserts that the commission has adopted a
 3-34 rule in violation of Subsection (b) or (c) may appeal to the
 3-35 attorney general for a determination of whether the rule violates
 3-36 the subsection because the rule does not comply with reasonable
 3-37 business practices. The attorney general shall make a
 3-38 determination on an appeal submitted under this section not later
 3-39 than the 90th day after the date the appeal is submitted or within a
 3-40 reasonable time as circumstances require. The challenged rule may
 3-41 not take effect until after the attorney general makes a
 3-42 determination. This subsection expires September 1, 2007.

3-43 SECTION 11. Section 1702.223, Occupations Code, is amended
 3-44 to read as follows:

3-45 Sec. 1702.223. ALARM SYSTEMS INSTALLER. (a) An individual
 3-46 acts as an alarm systems installer for purposes of this chapter if
 3-47 the individual installs, maintains, or repairs an alarm system or
 3-48 detection device.

3-49 (b) An alarm systems installer may install, maintain, or
 3-50 repair an electronic access control device.

3-51 SECTION 12. Subsection (a), Section 1702.239, Occupations
 3-52 Code, is amended to read as follows:

3-53 (a) The commission may require that an individual employed
 3-54 as an alarm systems installer or security salesperson hold a
 3-55 certification by a commission-approved training program to renew an
 3-56 initial registration. The commission may approve only nationally
 3-57 recognized training programs that consist of at least 16 [~~20~~] hours
 3-58 of classroom study in the areas of work allowed by the registration.
 3-59 To be approved, a training program must offer at least two
 3-60 certification programs each year, sufficient to complete the
 3-61 requirements of this subsection, within 100 miles of each county in
 3-62 the state that has a population of more than 500,000.

3-63 SECTION 13. Subsection (b), Section 1702.324, Occupations
 3-64 Code, is amended to read as follows:

3-65 (b) This chapter does not apply to:

3-66 (1) a manufacturer or a manufacturer's authorized
 3-67 distributor who sells equipment to a license holder or registrant
 3-68 that is used in the operations for which the person is required to
 3-69 be licensed or registered;

4-1 (2) a person engaged exclusively in the business of
4-2 obtaining and providing information to:
4-3 (A) determine creditworthiness;
4-4 (B) collect debts; or
4-5 (C) ascertain the reliability of information
4-6 provided by an applicant for property, life, or disability
4-7 insurance or an indemnity or surety bond;
4-8 (3) a person engaged exclusively in the business of
4-9 repossessing property that is secured by a mortgage or other
4-10 security interest;
4-11 (4) ~~[a locksmith who:~~
4-12 ~~[(A) does not install or service detection~~
4-13 ~~devices;~~
4-14 ~~[(B) does not conduct investigations; and~~
4-15 ~~[(C) is not a security services contractor;~~
4-16 ~~[(5)]~~ a person who:
4-17 (A) is engaged in the business of psychological
4-18 testing or other testing and interviewing services, including
4-19 services to determine attitudes, honesty, intelligence,
4-20 personality, and skills, for preemployment purposes; and
4-21 (B) does not perform any other service that
4-22 requires a license under this chapter;
4-23 (5) ~~[(6)]~~ a person who:
4-24 (A) is engaged in obtaining information that is a
4-25 public record under Chapter 552, Government Code, regardless of
4-26 whether the person receives compensation;
4-27 (B) is not a full-time employee, as defined by
4-28 Section 61.001, Labor Code, of a person licensed under this
4-29 chapter; and
4-30 (C) does not perform any other act that requires
4-31 a license under this chapter;
4-32 (6) ~~[(7)]~~ a licensed professional engineer practicing
4-33 engineering or directly supervising engineering practice under
4-34 Chapter 1001 ~~[The Texas Engineering Practice Act (Article 3271a,~~
4-35 ~~Vernon's Texas Civil Statutes)],~~ including forensic analysis,
4-36 burglar alarm system engineering, and necessary data collection;
4-37 (7) ~~[(8)]~~ an employee of a cattle association who
4-38 inspects livestock brands under the authority granted to the cattle
4-39 association by the Grain Inspection, Packers and Stockyards
4-40 Administration of the United States Department of Agriculture;
4-41 (8) ~~[(9)]~~ a landman performing activities in the
4-42 course and scope of the landman's business;
4-43 (9) ~~[(10)]~~ an attorney while engaged in the practice
4-44 of law;
4-45 (10) ~~[(11)]~~ a person who obtains a document for use in
4-46 litigation under an authorization or subpoena issued for a written
4-47 or oral deposition; or
4-48 (11) ~~[(12)]~~ an admitted insurer, insurance adjuster,
4-49 agent, or insurance broker licensed by the state, performing duties
4-50 in connection with insurance transacted by that person.

4-51 SECTION 14. Section 1702.328, Occupations Code, is amended
4-52 to read as follows:
4-53 Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION.
4-54 This chapter does not apply to:
4-55 (1) a person who owns and installs a burglar detection
4-56 or alarm device on the person's own property or, if the person does
4-57 not charge for the device or the installation, installs the device
4-58 for the protection of the person's personal property located on
4-59 another person's property and does not, as a normal business
4-60 practice, install the devices on the property of another;
4-61 (2) a person in the business of building construction
4-62 that installs electrical wiring and devices that may include in
4-63 part the installation of a burglar alarm or detection device if:
4-64 (A) the person is a party to a contract that
4-65 provides that:
4-66 (i) the installation will be performed
4-67 under the direct supervision of, and inspected and certified by, a
4-68 person licensed to install and certify the alarm or detection
4-69 device; and

5-1 (ii) the license holder assumes full
5-2 responsibility for the installation of the alarm or detection
5-3 device; and

5-4 (B) the person does not service or maintain alarm
5-5 systems, electronic access control devices, locks, [burglar
5-6 alarms] or detection devices;

5-7 (3) a person who sells or installs automobile burglar
5-8 alarm devices and who does not perform any other act that requires a
5-9 license under this chapter; or

5-10 (4) a person who sells exclusively over the counter or
5-11 by mail order [~~burglar~~] alarm systems, electronic access control
5-12 devices, locks, or detection [signal] devices[~~, burglary alarms,~~
5-13 ~~television cameras, still cameras, or other electrical,~~
5-14 ~~mechanical, or electronic devices used for preventing or detecting~~
5-15 ~~burglary, theft, or other losses~~].

5-16 SECTION 15. (a) Not later than January 1, 2004, the Texas
5-17 Commission on Private Security shall adopt the rules necessary to
5-18 administer the changes in law made by this Act to Chapter 1702,
5-19 Occupations Code.

5-20 (b) Notwithstanding Sections 1702.1025 and 1702.2225,
5-21 Occupations Code, as added by this Act, and Section 1702.221,
5-22 Occupations Code, as amended by this Act, a person is not required
5-23 to hold a license as an electronic access control device company or
5-24 be registered as an electronic access control device installer, a
5-25 locksmith company, or a locksmith before September 1, 2004.

5-26 SECTION 16. (a) Except as provided by Subsection (b) of
5-27 this section, this Act takes effect September 1, 2003.

5-28 (b) Sections 1702.1025 and 1702.2225, Occupations Code, as
5-29 added by this Act, take effect January 1, 2004.

5-30 * * * * *