

BILL ANALYSIS

C.S.H.B. 2304
By: Driver
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Law Enforcement Committee of the 78th Legislature was charged by the Speaker with conducting an interim study on home alarm systems and the interaction of law enforcement and private security in determining the appropriate response to home alarms. At a public hearing, the committee heard testimony that a high percentage of home and business alarms that result in officer dispatch are false alarms caused by user error, diverting law enforcement resources. However, most alarm system users want police response to alarms. As proposed, C.S.H.B. 2304 establishes a system to reduce the number of false alarms to which police must respond.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2304 amends Section 214.194 of the Local Government Code to require a municipality that adopts an ordinance requiring a person to pay an annual fee to obtain an alarm system permit to use the fees for the general administration of Subchapter F, Chapter 214, Local Government Code.

The bill further amends Section 214.194 to provide that a municipal permit fee imposed under this section may not exceed the rate of \$50 a year for a residential location or \$100 a year for a commercial location.

The bill amends the heading of Section 214.195, Local Government Code and amends Section 214.195(a) to provide that, except as provided by subsection (d), a municipality may not terminate its law enforcement response to a residential or commercial permit holder because of excess false alarms, if the false alarm fees are paid in full. The bill amends Section 214.195(d), Local Government Code, to authorize a municipality to revoke or refuse to renew the permit of an alarm system that has had eight or more false alarms during the preceding twelve (12) month period.

The bill amends Section 214.197 of the Local Government Code by renaming the section "PENALTIES FOR FALSE ALARMS." The bill allows a municipality to impose a penalty for the signaling of a false alarm if at least three other false alarms have occurred during the preceding 12-month period. The bill provides that the amount of the penalty for the signaling of a false alarm as described by Section 214.196 may not exceed:

- \$50, if the location has had more than three (3) but fewer than six (6) other false alarms in the preceding 12-month period,
- \$75, if the location has had more than five (5) but fewer than eight (8) other false alarms in the preceding 12-month period, and
- \$100, if the location has had eight (8) or more other false alarms in the preceding 12-month period.

The bill further amends 214.197 of the Local Government Code to remove the requirement that a penalty or fee imposed for a false alarm be established by ordinance based on the type and level of emergency response provided and to delete the provisions setting penalty limits.

The bill amends Subchapter F, Chapter 214, Local Government Code, by adding Sections 214.198 - 214.200, as follows:

- Authorizes a municipality to require an alarm systems monitor to attempt to contact the occupant of the alarm system location twice before the municipality responds to the alarm signal.
- Prohibits the governing body of a municipality from adopting an ordinance providing that law enforcement will not respond to any alarm signal in the municipality unless, before adopting the ordinance, the governing body of the municipality:
 - makes reasonable efforts to notify permit holders of its intention to adopt the ordinance; and
 - conducts a public hearing
- Prohibits a municipality that adopts an ordinance under Subchapter F, Chapter 214, from imposing or collecting a fine, fee, or penalty otherwise authorized by this subchapter.
- Provides that nothing in Subchapter F, Chapter 214, affects the priority or level of response provided by a municipality to a permitted location or waives municipal governmental immunity.
- Provides that a municipality that does not respond to an alarm signal is not liable for damages that may occur relating to the cause of the alarm signal.

The bill amends Subchapter L, Chapter 1702, Occupations Code, by adding Sections 1702.286 and 1702.287, as follows:

- Requires an alarm systems company to distribute to the occupant of a system location, upon installation or activation, information summarizing the law relating to false alarms, including the potential for penalties and revocation or suspension of a permit, how to prevent false alarms, and how to operate the system.
- Requires an alarm systems company to notify the municipality of the installation or activation of an alarm system within 30 days.
- Requires the alarm systems company to provide to the municipality its company name and license number, the name of the occupant of the alarm system location, the address of the alarm system location, and the date of installation or activation.
- Provides that information provided under Section 1702.286 is confidential and subject to disclosure only under Section 1702.284.
- Prohibits an alarm systems company from installing any alarm system on or after January 1, 2007, that includes a detection device control panel that does not meet or exceed the standards of the American National Standards Institute for false alarm reduction.

Provides that Section 1702.286, Occupations Code, as added by this Act, applies only to an alarm system installed or activated on or after January 1, 2006.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill amends Section 214.191 of the Local Government Code to expand the definition of "alarm system" to include a device or system that transmits a signal intended to summon police in response to an indication of "burglary, robbery, duress, or panic." The original bill also amends Section 214.192 of the Local Government Code to expand the category of alarm systems to be regulated to include robbery, duress, and panic, as well as burglary. The substitute does not make these changes.

The original bill adds Section 214.1925 to the Local Government Code, which requires the governing body of a municipality, by ordinance, to require a person to obtain a permit from the municipality before operating an alarm system in the municipality and provides that this section does not apply to a municipality that adopts an ordinance under Section 214.199. The substitute does not make these changes.

The original bill amends Section 214.193(a) of the Local Government Code to require an ordinance adopted under Section 214.1925 to provide that any required permit is valid for at least one year. The substitute does not make these changes.

The original bill does not amend Section 214.194 to require that fees for municipal permits be used for the general administration of Subchapter F, Chapter 214. The substitute includes this requirement.

The original bill adds Section 214.1945 to the Local Government Code to provide that a municipality is not required to provide a law enforcement response to an alarm system at a residential or commercial location if a required permit was not obtained, or, with proper notice given, was revoked or expired. The substitute does not add this section.

The original bill adds Section 214.1955 to the Local Government Code to provide that a municipality may not refuse to issue a permit solely because the applicant is a multi-unit housing facility. The original bill requires that a permit for an individual unit within a housing facility be issued to the individual occupant. The original bill provides that the penalty for the signaling of a false alarm on the premises of a multi-unit housing facility, other than for in an individual residential unit, may only be imposed only if the permit holder is notified of certain information regarding the date and place in which the alarm occurred. The substitute does not add this section.

The original bill amends Section 214.196 of the Local Government Code by removing language requiring the law enforcement agency of a municipality to inspect the interior of the premises before considering an alarm to have been false. The substitute does not make this change.

The original bill adds Section 214.198 to the Local Government Code to provide that fines and fees charged by a municipality may not exceed its actual cost of providing services, and requires the municipality to conduct an audit on a biennial basis to determine that cost. The substitute does not add this provision.

The substitute adds Section 214.198 to the Local Government Code to authorize a municipality to require an alarm systems monitor to attempt to contact the occupant of the alarm system location twice before the municipality responds to the alarm signal. The original bill does not make this change.

The original bill adds Section 214.199 to the Local Government Code to provide certain time periods in which a municipality must post public notice and hold hearings before adopting an ordinance providing that law enforcement personnel will not respond to any alarm signal indicated by an alarm system in the municipality. The substitute does not provide specific time periods, but requires the municipality to make reasonable efforts to notify permit holders of its intentions and to hold a public hearing.

The original bill adds Section 214.201 to the Local Government Code to provide that a municipality that does not respond to an alarm system signal is not liable for damages that may occur in relation to the cause of the alarm signal if the municipality;

- was not required to provide a law enforcement response to the signal for a reason described under Section 214.1945; or
- adopted an ordinance under Section 214.199 providing that the law enforcement personnel of the municipality will not respond to any alarm signal.

The substitute does not make this change to Section 214.201. However, the substitute does add Section 214.200 to the Local Government Code to provide that a municipality that does not respond to an alarm signal is not liable for damages that may occur relating to the cause of the alarm signal.

The original bill adds Section 1702.286(d) to the Occupations Code to provide that the notice required by Section 1702.286(b) must be provided by fax, electronic mail, or the through the United States Postal Service. The substitute does not make this change.

The original bill adds Section 1702.288 to the Occupations Code to define "alarm systems monitor", and require an alarm systems monitor, in the event of the signaling of an alarm system, to attempt to contact the location of the alarm system by telephone to verify whether the alarm signal is false before notifying a municipality or other political subdivision of the receipt of the alarm signal. The original bill also adds Section 1702.288(c), to provide that the requirement under Section 1702.288(b) does not apply to the receipt of an alarm signal from a manually activated device designed to indicate robbery, panic, or duress. The substitute does not make these changes.