

By: Hughes

H.B. No. 3140

Substitute the following for H.B. No. 3140:

By: Hupp

C.S.H.B. No. 3140

A BILL TO BE ENTITLED

AN ACT

relating to exemption of certain electronic access control device or alarm system manufacturers or providers from private security regulation.

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-a) and adding Subdivision (1-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:

(i) records or ~~[7]~~ archives images of ~~[7-or monitors]~~ property or individuals in a public or private area of a

1 residence or business; or

2 (ii) is monitored by security personnel or
3 services.

4 (1-a) For purposes of Subdivision (1), the term "alarm
5 system" does not include a telephone entry system, an operator for
6 opening or closing a residential or commercial gate or door, or an
7 accessory used only to activate a gate or door, if the system,
8 operator, or accessory is not connected to an alarm system.

9 (6-a) "Electronic access control device" means an
10 electronic, electrical, or computer-based device, including a
11 telephone entry system, that allows access to a controlled area of a
12 business, but that is not monitored by security personnel or
13 services and does not send a signal to which law enforcement or
14 emergency services respond. The term does not include:

15 (A) a mechanical device, such as a deadbolt or
16 lock; or

17 (B) an operator for opening or closing a
18 commercial gate or door or an accessory, such as a fixed or portable
19 transmitter, card-reader, or keypad, if the operator or accessory
20 is used only to activate the gate or door and is not connected to an
21 alarm system.

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

24 (b) This chapter does not apply to:

25 (1) a manufacturer or a manufacturer's authorized
26 distributor who sells equipment intended for resale and does not
27 perform any other service that requires a license under this

1 chapter [~~to a license holder or registrant that is used in the~~
2 ~~operations for which the person is required to be licensed or~~
3 ~~registered~~];

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

6 (A) determine creditworthiness;

7 (B) collect debts; or

8 (C) ascertain the reliability of information
9 provided by an applicant for property, life, or disability
10 insurance or an indemnity or surety bond;

11 (3) a person engaged exclusively in the business of
12 repossessing property that is secured by a mortgage or other
13 security interest;

14 (4) a person who:

15 (A) is engaged in the business of psychological
16 testing or other testing and interviewing services, including
17 services to determine attitudes, honesty, intelligence,
18 personality, and skills, for preemployment purposes; and

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

21 (5) a person who:

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

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

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

3 (6) a licensed engineer practicing engineering or
4 directly supervising engineering practice under Chapter 1001,
5 including forensic analysis, burglar alarm system engineering, and
6 necessary data collection;

7 (7) an employee of a cattle association who inspects
8 livestock brands under the authority granted to the cattle
9 association by the Grain Inspection, Packers and Stockyards
10 Administration of the United States Department of Agriculture;

11 (8) a landman performing activities in the course and
12 scope of the landman's business;

13 (9) an attorney while engaged in the practice of law;

14 (10) a person who obtains a document for use in
15 litigation under an authorization or subpoena issued for a written
16 or oral deposition;

17 (11) an admitted insurer, insurance adjuster, agent,
18 or insurance broker licensed by the state, performing duties in
19 connection with insurance transacted by that person; or

20 (12) a person who on the person's own property or on
21 property owned or managed by the person's employer:

22 (A) installs, changes, or repairs a mechanical
23 security device;

24 (B) repairs an electronic security device; or

25 (C) cuts or makes a key for a security device.

26 (13) security personnel, including security contract
27 personnel, working at a commercial nuclear power plant licensed by

1 the United States Nuclear Regulatory Commission.

2 SECTION 3. Section 1702.328, Occupations Code, is amended
3 to read as follows:

4 Sec. 1702.328. SECURITY SYSTEMS SALES AND
5 INSTALLATION. This chapter does not apply to:

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

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

15 (A) the person is a party to a contract that
16 provides that:

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

21 (ii) the license holder assumes full
22 responsibility for the installation of the alarm or detection
23 device; and

24 (B) the person does not service or maintain alarm
25 systems, electronic access control devices, locks, or detection
26 devices;

27 (3) a person who sells or installs automobile burglar

1 alarm devices and who does not perform any other act that requires a
2 license under this chapter; or

3 (4) a person who sells exclusively by e-commerce, over
4 the counter transactions, or [~~by~~] mail order, alarm systems,
5 electronic access control devices, locks, or detection devices.

6 SECTION 4. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2005.