

By: Hughes (Senate Sponsor - Armbrister) H.B. No. 3140  
(In the Senate - Received from the House May 16, 2005;  
May 17, 2005, read first time and referred to Committee on Business  
and Commerce; May 19, 2005, reported favorably by the following  
vote: Yeas 9, Nays 0; May 19, 2005, sent to printer.)

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  
residence or business; or

(ii) is monitored by security personnel or  
services.

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

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

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

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

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

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized  
distributor who sells equipment intended for resale and does not  
perform any other service that requires a license under this  
chapter ~~[to a license holder or registrant that is used in the~~  
~~operations for which the person is required to be licensed or~~  
~~registered];~~

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

(A) determine creditworthiness;

(B) collect debts; or

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

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

(4) a person who:

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

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

(5) a person who:

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

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

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

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

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

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

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

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

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

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

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

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device; or

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission.

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

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

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

(2) 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:

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

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

(ii) the license holder assumes full responsibility for the installation of the alarm or detection

device; and

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

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

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

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

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