

AN ACT

relating to private security and personal emergency response system providers; providing penalties.

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

SECTION 1. Section 214.194, Local Government Code, is amended to read as follows:

Sec. 214.194. [~~FEE FOR~~] MUNICIPAL PERMIT FEE GENERALLY.

(a) If a municipality adopts an ordinance that requires a person to pay an annual fee to obtain a permit from the municipality before the person may use an alarm system in the municipality, the fee shall be used for the general administration of this subchapter, including the provision of responses generally required to implement this subchapter other than specific responses to false alarms.

(b) A municipal permit fee imposed under this section may not exceed the rate of \$50 a year for a residential location.

SECTION 2. The heading to Section 214.195, Local Government Code, is amended to read as follows:

Sec. 214.195. NONRENEWAL OR REVOCATION OF PERMIT AND TERMINATION OF MUNICIPAL RESPONSE; [AND] DISCRIMINATION PROHIBITED.

SECTION 3. Subsections (a) and (d), Section 214.195, Local Government Code, are amended to read as follows:

(a) Except as provided in Subsection (d) [~~of this section~~],

1 a municipality may not terminate its law enforcement response to a
2 residential permit holder because of excess false alarms if the
3 false alarm fees are paid in full.

4 (d) A municipality may revoke or [~~set standards for systems~~
5 ~~to be permitted and may~~] refuse to renew the permit of an alarm
6 system that has had eight or more false alarms during the preceding
7 12-month period [~~permit particular systems which in its discretion~~
8 ~~have a history of unreliability~~].

9 SECTION 4. Subchapter F, Chapter 214, Local Government
10 Code, is amended by adding Section 214.1955 to read as follows:

11 Sec. 214.1955. MULTIUNIT HOUSING FACILITIES. (a) A
12 municipality may not refuse to issue an alarm system permit for a
13 residential location solely because the residential location is an
14 individual residential unit located in a multiunit housing
15 facility.

16 (b) In issuing an alarm system permit for an alarm installed
17 in an individual residential unit of a multiunit housing facility,
18 the municipality shall issue the permit to the person occupying the
19 individual residential unit.

20 (c) A municipality may impose a penalty under Section
21 214.197 for the signaling of a false alarm on the premises of a
22 multiunit housing facility for a facility other than an individual
23 residential unit only if the permit holder is notified of:

- 24 (1) the date of the signaling of the false alarm;
25 (2) the address of the multiunit housing facility
26 where the signaling of the false alarm occurred; and
27 (3) the identification of the individual facility, if

1 applicable, located on the multiunit housing facility premises
2 where the signaling of the false alarm occurred.

3 SECTION 5. Section 214.197, Local Government Code, is
4 amended to read as follows:

5 Sec. 214.197. PENALTIES FOR FALSE ALARMS [~~PENALTY~~
6 ~~LIMITATIONS~~]. [~~(a)~~] A municipality may [~~not~~] impose a penalty [~~or~~
7 ~~fee~~] for the signaling of a false alarm by a burglar alarm system if
8 [unless] at least three [~~five~~] other false alarms have occurred
9 during the preceding 12-month period. The amount of the penalty for
10 the signaling of a false alarm as described by Section 214.196 may
11 not exceed:

12 (1) \$50, if the location has had more than three but
13 fewer than six other false alarms in the preceding 12-month period;

14 (2) \$75, if the location has had more than five but
15 fewer than eight other false alarms in the preceding 12-month
16 period; or

17 (3) \$100, if the location has had eight or more other
18 false alarms in the preceding 12-month period

19 [~~(b) A penalty or fee imposed for a false alarm must be~~
20 ~~established by ordinance based on the type and level of emergency~~
21 ~~response provided. This fee may not exceed \$50 in the case of the~~
22 ~~category of burglar alarms. The penalty or fee for a false alarm~~
23 ~~may not exceed the actual expenses incurred for the response].~~

24 SECTION 6. Subchapter F, Chapter 214, Local Government
25 Code, is amended by adding Sections 214.198, 214.199, and 214.200
26 to read as follows:

27 Sec. 214.198. VERIFICATION. A municipality may require an

1 alarm systems monitor to attempt to contact the occupant of the
2 alarm system location twice before the municipality responds to the
3 alarm signal.

4 Sec. 214.199. EXCEPTION OF MUNICIPALITY FROM ALARM SYSTEM
5 RESPONSE. (a) The governing body of a municipality may not adopt
6 an ordinance providing that law enforcement personnel of the
7 municipality will not respond to any alarm signal indicated by an
8 alarm system in the municipality unless, before adopting the
9 ordinance, the governing body of the municipality:

10 (1) makes reasonable efforts to notify permit holders
11 of its intention to adopt the ordinance; and

12 (2) conducts a public hearing at which persons
13 interested in the response of the municipality to alarm systems are
14 given the opportunity to be heard.

15 (b) A municipality that adopts an ordinance under this
16 section may not impose or collect any fine, fee, or penalty
17 otherwise authorized by this subchapter.

18 Sec. 214.200. PRIORITY OR LEVEL OF RESPONSE NOT AFFECTED;
19 LIABILITY OF MUNICIPALITY FOR NONRESPONSE. (a) Nothing in this
20 subchapter:

21 (1) affects the priority or level of response provided
22 by a municipality to a permitted location; or

23 (2) waives the governmental immunity provided by law
24 for a municipality.

25 (b) A municipality that does not respond to an alarm signal
26 is not liable for damages that may occur relating to the cause of
27 the alarm signal.

1 SECTION 7. Subchapter L, Chapter 1702, Occupations Code, is
2 amended by adding Sections 1702.286, 1702.287, and 1702.288 to read
3 as follows:

4 Sec. 1702.286. DUTIES OF ALARM SYSTEMS COMPANY. (a) On
5 the installation or activation of an alarm system, an alarm systems
6 company shall distribute to the occupant of the alarm system
7 location information summarizing:

8 (1) the applicable law relating to false alarms,
9 including the potential for penalties and revocation or suspension
10 of a permit;

11 (2) how to prevent false alarms; and

12 (3) how to operate the alarm system.

13 (b) An alarm systems company shall notify the municipality
14 in which the alarm system is located of an installation or
15 activation of an alarm system not later than the 30th day after the
16 date of the installation or activation. The alarm systems company
17 shall provide to the municipality:

18 (1) the alarm systems company name;

19 (2) the alarm systems company license number;

20 (3) the name of the occupant of the alarm system
21 location;

22 (4) the address of the alarm system location; and

23 (5) the date of installation or activation.

24 (c) Information provided to a governmental body under this
25 section is confidential and subject to disclosure only as provided
26 under Section 1702.284.

27 (d) An alarm systems company commits an offense if the

1 company violates Subsection (a) or (b). An offense under this
2 subsection is a Class C misdemeanor.

3 (e) The duties imposed by this section on an alarm systems
4 company do not apply to the installation or activation of a personal
5 emergency response system, as defined under Section 1702.331.

6 Sec. 1702.287. DETECTION DEVICE CONTROL PANELS; MINIMUM
7 STANDARDS. An alarm systems company may not install any alarm
8 system on or after January 1, 2007, that includes a detection device
9 control panel unless the control panel meets or exceeds the
10 standards of the American National Standards Institute for false
11 alarm reduction.

12 Sec. 1702.288. NOTICE OF CERTAIN INFORMATION TO RECIPIENT
13 OF ALARM SYSTEM SERVICES. (a) The board shall adopt rules in
14 accordance with this section that require a license holder acting
15 as an alarm systems company under this chapter to inform each of the
16 license holder's clients that the client is entitled to receive a
17 written contract for alarm system services that contains the
18 client's fee arrangement and other relevant information about
19 services to be rendered.

20 (b) The rules shall require that a written contract for
21 alarm system services shall be furnished to a client in accordance
22 with Subsection (a) not later than the seventh day after the date
23 the client requests the written contract.

24 (c) The rules shall require that the written contract for
25 services shall be dated and signed by the owner or manager of an
26 alarm systems company or a person expressly authorized by the owner
27 or manager to sign written contracts on behalf of the company.

1 (d) The rules shall require that, not later than the seventh
2 day after the date of entering into a contract for services
3 regulated by the board with another alarm systems company or alarm
4 systems monitor, an alarm systems company shall:

5 (1) notify the recipient of those services of the
6 name, address, and telephone number and individual to contact at
7 the company that purchased the contract;

8 (2) notify the recipient of services at the time the
9 contract is negotiated that another licensed company may provide
10 any of the services requested by subcontracting or outsourcing
11 those services; and

12 (3) if any of the services are subcontracted or
13 outsourced to a licensed third party, notify the recipient of
14 services, by mail, of the name, address, phone number, and license
15 number of the company providing those services.

16 (e) The rules shall require that notice provided to a
17 recipient of services under Subsection (d) shall:

18 (1) be mailed to the recipient in a written form that
19 emphasizes the required information; and

20 (2) include stickers or other materials to be affixed
21 to an alarm system indicating the alarm systems company's or alarm
22 systems monitor's new telephone number.

23 SECTION 8. Subchapter N, Chapter 1702, Occupations Code, is
24 amended by adding Section 1702.331 to read as follows:

25 Sec. 1702.331. PERSONAL EMERGENCY RESPONSE SYSTEMS.

26 (a) In this section, "personal emergency response system" means an
27 alarm system that is:

- 1 (1) installed in the residence of a person;
- 2 (2) monitored by an alarm systems company;
- 3 (3) designed only to permit the person to signal the
4 occurrence of a medical or personal emergency on the part of the
5 person so that the company may dispatch appropriate aid; and
- 6 (4) not part of a combination of alarm systems that
7 includes a burglar alarm or fire alarm.

8 (b) This chapter does not apply to:

- 9 (1) an alarm systems company that sells, installs,
10 services, monitors, or responds to only personal emergency response
11 systems;
- 12 (2) an alarm systems installer who installs,
13 maintains, or repairs only personal emergency response systems;
- 14 (3) a manager or branch office manager of an alarm
15 systems company described by Subdivision (1);
- 16 (4) a security salesperson who is employed by an alarm
17 systems company described by Subdivision (1) to sell services
18 offered by the company; and
- 19 (5) an owner, officer, partner, or shareholder of an
20 alarm systems company described by Subdivision (1).

21 SECTION 9. Subtitle B, Title 9, Health and Safety Code, is
22 amended by adding Chapter 781 to read as follows:

23 CHAPTER 781. PERSONAL EMERGENCY RESPONSE SYSTEMS

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 781.001. DEFINITIONS. In this chapter:

- 26 (1) "Alarm system" means electronic equipment and
27 devices designed to act as a personal emergency response system.

1 (2) "Branch office" means an office that:

2 (A) is identified to the public as a place from
3 which business is conducted, solicited, or advertised; and

4 (B) is at a place other than the principal place
5 of business as shown in department records.

6 (3) "Commissioner" means the executive commissioner
7 of the Health and Human Services Commission.

8 (4) "Department" means the Department of State Health
9 Services.

10 (5) "Manager" means an officer or supervisor of a
11 corporation or a general partner of a partnership who manages a
12 personal emergency response system provider.

13 (6) "Personal emergency response system" means an
14 alarm system that is:

15 (A) installed in the residence of a person;

16 (B) monitored by an alarm systems company;

17 (C) designed only to permit the person to signal
18 the occurrence of a medical or personal emergency on the part of the
19 person so that the company may dispatch appropriate aid; and

20 (D) not part of a combination of alarm systems
21 that includes a burglar alarm or fire alarm.

22 [Sections 781.002-781.050 reserved for expansion]

23 SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

24 Sec. 781.051. GENERAL POWERS AND DUTIES. (a) The
25 department shall perform the functions and duties provided by this
26 chapter.

27 (b) The commissioner shall adopt rules necessary to

1 administer this chapter.

2 (c) The commissioner shall establish fees necessary to
3 administer this chapter, including fees for processing and issuing
4 or renewing a license or registration under this chapter.

5 (d) The commissioner shall prescribe forms required by this
6 chapter.

7 [Sections 781.052-781.100 reserved for expansion]

8 SUBCHAPTER C. LICENSING

9 Sec. 781.101. PERSONAL EMERGENCY RESPONSE SYSTEM PROVIDER
10 LICENSE REQUIRED. Unless the person holds a license issued under
11 this chapter, a person may not act as or perform the services of a
12 personal emergency response system provider.

13 Sec. 781.102. PERSONAL EMERGENCY RESPONSE SYSTEM PROVIDER.
14 A person acts as a personal emergency response system provider for
15 the purposes of this chapter if the person sells, installs,
16 services, monitors, or responds to a personal emergency response
17 system.

18 Sec. 781.103. APPLICATION FOR LICENSE. An application for
19 a license under this chapter must be in the form prescribed by the
20 commissioner and include:

21 (1) the full name and business address of the
22 applicant;

23 (2) the name under which the applicant intends to do
24 business;

25 (3) a statement as to the general nature of the
26 business in which the applicant intends to engage;

27 (4) if the applicant is an entity other than an

1 individual, the full name and residence address of each partner,
2 officer, and director of the applicant, and of the applicant's
3 manager;

4 (5) a verified statement of the applicant's experience
5 qualifications;

6 (6) a report from the Department of Public Safety
7 stating the applicant's record of any convictions for a Class B
8 misdemeanor or equivalent offense or a greater offense;

9 (7) the social security number of the individual
10 making the application; and

11 (8) other information, evidence, statements, or
12 documents required by the department.

13 Sec. 781.104. ISSUANCE OF BRANCH OFFICE LICENSE. (a) A
14 license holder shall notify the department in writing of the
15 establishment of a branch office and file in writing with the
16 department the address of the branch office.

17 (b) On application by a license holder, the department shall
18 issue a branch office license.

19 Sec. 781.105. FORM OF LICENSE. The commissioner shall
20 prescribe the form of a license, including a branch office license.
21 The license must include:

22 (1) the name of the license holder;

23 (2) the name under which the license holder is to
24 operate; and

25 (3) the license number and the date the license was
26 issued.

27 Sec. 781.106. GENERAL QUALIFICATIONS FOR LICENSE. (a) An

1 applicant for a license or the applicant's manager must be at least
2 18 years of age and must not:

3 (1) have been convicted in any jurisdiction of a Class
4 A misdemeanor or equivalent offense or a greater offense, unless a
5 full pardon has been granted for reasons relating to a wrongful
6 conviction;

7 (2) have been convicted in any jurisdiction of a Class
8 B misdemeanor or equivalent offense for which the fifth anniversary
9 of the date of conviction has not occurred before the date of
10 application, unless a full pardon has been granted for reasons
11 relating to a wrongful conviction;

12 (3) have been found by a court to be incompetent by
13 reason of a mental defect or disease and not have been restored to
14 competency;

15 (4) be suffering from habitual drunkenness or from
16 narcotics addiction or dependence; or

17 (5) have been discharged from the United States armed
18 forces under other than honorable conditions.

19 (b) The department may deny an application for a license if
20 the applicant has been convicted in any jurisdiction of a Class B
21 misdemeanor or equivalent offense if the fifth anniversary of the
22 date of conviction has occurred before the date of application,
23 unless a full pardon has been granted for reasons relating to a
24 wrongful conviction.

25 Sec. 781.107. MANAGER REQUIRED. (a) A license holder's
26 business shall be operated under the direction and control of one
27 manager. A license holder may not apply to designate more than one

1 individual to serve as manager of the license holder's business.

2 (b) An individual may not act as a manager until the
3 individual has made a satisfactory showing to the department that
4 the individual:

5 (1) satisfies the requirements of Section 781.106; and

6 (2) has not engaged in conduct regarding a violation
7 or conviction that is grounds for disciplinary action under Section
8 781.351.

9 Sec. 781.108. INSURANCE. (a) A license holder shall
10 maintain on file with the department at all times the certificate of
11 insurance required by this chapter.

12 (b) The department shall immediately suspend the license of
13 a license holder who violates Subsection (a).

14 (c) The department may rescind the license suspension if the
15 license holder provides proof to the department that the insurance
16 coverage is still in effect. The license holder must provide the
17 proof in a form satisfactory to the department not later than the
18 10th day after the date the license is suspended.

19 (d) After suspension of the license, the department may not
20 reinstate the license until an application, in the form prescribed
21 by the commissioner, is filed accompanied by a proper insurance
22 certificate. The department may deny the application
23 notwithstanding the applicant's compliance with this section:

24 (1) for a reason that would justify suspending,
25 revoking, or denying a license; or

26 (2) if, during the suspension, the applicant performs
27 a practice for which a license is required.

1 Sec. 781.109. INSURANCE REQUIREMENT. (a) The department
2 may not issue a license unless the applicant files with the
3 department:

4 (1) evidence of a general liability insurance policy
5 on a certificate of insurance form prescribed by the Texas
6 Department of Insurance and countersigned by an insurance agent
7 licensed in this state; or

8 (2) a certificate of insurance for surplus lines
9 coverage obtained under Chapter 981, Insurance Code, through a
10 licensed Texas surplus lines agent resident in this state.

11 (b) The general liability insurance policy must be
12 conditioned to pay on behalf of the license holder damages that the
13 license holder becomes legally obligated to pay because of bodily
14 injury, property damage, or personal injury, caused by an event
15 involving the principal, or an officer, agent, or employee of the
16 principal, in the conduct of any business licensed under this
17 chapter.

18 (c) The insurance policy must contain minimum limits of:

19 (1) \$100,000 for each occurrence for bodily injury and
20 property damage;

21 (2) \$50,000 for each occurrence for personal injury;
22 and

23 (3) a total aggregate amount of \$200,000 for all
24 occurrences.

25 (d) An insurance certificate executed and filed with the
26 department under this chapter remains in effect until the insurer
27 terminates future liability by providing to the department at least

1 10 days' notice of the intent to terminate liability.

2 Sec. 781.110. LICENSE HOLDER EXEMPTIONS FROM CERTAIN LOCAL
3 REGULATIONS. (a) A license holder or an employee of a license
4 holder is not required to obtain an authorization, permit,
5 franchise, or license from, pay another fee or franchise tax to, or
6 post a bond in a municipality, county, or other political
7 subdivision of this state to engage in business or perform a service
8 authorized under this chapter.

9 (b) A municipality, county, or other political subdivision
10 of this state may not require a payment for the use of municipal,
11 county, or other public facilities in connection with a business or
12 service provided by a license holder, except that a municipality
13 may impose and collect:

14 (1) a reasonable charge for the use of a central alarm
15 installation located in a police office that is owned, operated, or
16 monitored by the municipality; and

17 (2) reasonable inspection and reinspection fees in
18 connection with a device that causes at least five false alarms in a
19 12-month period.

20 (c) A municipality may require, until the device is repaired
21 to the satisfaction of the appropriate municipal official,
22 discontinuation of service of an alarm signal device that, because
23 of mechanical malfunction or faulty equipment, causes at least five
24 false alarms in a 12-month period.

25 (d) For the purposes of Subsection (c), a false alarm caused
26 by human error or an act of God is not considered a mechanical
27 malfunction or faulty equipment.

1 [Sections 781.111-781.150 reserved for expansion]

2 SUBCHAPTER D. REGISTRATION REQUIREMENTS

3 Sec. 781.151. REGISTRATION REQUIRED. An individual must
4 register with the department if the individual:

5 (1) is employed as an alarm systems company, alarm
6 systems installer, manager or branch office manager, or security
7 salesperson who enters a client's residence at any time while
8 performing the salesperson's responsibilities; or

9 (2) is an owner, officer, partner, or shareholder of a
10 license holder and is responsible for managing the business of the
11 license holder.

12 Sec. 781.152. ALARM SYSTEMS INSTALLER. An individual acts
13 as an alarm systems installer for purposes of this chapter if the
14 individual installs, maintains, or repairs a personal emergency
15 response system.

16 Sec. 781.153. ALARM SYSTEMS MONITOR. (a) An individual
17 acts as an alarm systems monitor for purposes of this chapter if the
18 individual monitors a personal emergency response system.

19 (b) This section does not apply to an individual employed
20 exclusively and regularly by an employer, other than a license
21 holder, in connection with the affairs of that employer and with
22 whom the individual has an employee-employer relationship.

23 Sec. 781.154. SECURITY SALESPERSON. An individual acts as
24 a security salesperson for purposes of this chapter if the
25 individual:

26 (1) is employed by a security services contractor to
27 sell services offered by the contractor; and

1 (2) enters a client's residence at any time during the
2 person's employment.

3 Sec. 781.155. QUALIFICATIONS FOR REGISTRATION. (a) An
4 individual must be at least 18 years of age to be registered.

5 (b) The department by rule may adopt additional
6 qualifications for an individual to be registered under this
7 subchapter.

8 Sec. 781.156. APPLICATION FOR REGISTRATION. (a) An
9 application for registration must be verified and include:

10 (1) the applicant's full name, residence address,
11 residence telephone number, date and place of birth, and social
12 security number;

13 (2) a statement that:

14 (A) lists each name used by the applicant, other
15 than the name by which the applicant is known at the time of
16 application, and an explanation stating each place where each name
17 was used, the date of each use, and a full explanation of the
18 reasons the name was used; or

19 (B) states that the applicant has never used a
20 name other than the name by which the applicant is known at the time
21 of application;

22 (3) the name and address of the applicant's employer
23 and, if applicable, the applicant's consulting firm;

24 (4) the date the employment commenced;

25 (5) a letter from the license holder requesting that
26 the applicant be registered;

27 (6) the title of the position occupied by the

1 applicant and a description of the applicant's duties; and

2 (7) any other information, evidence, statement, or
3 document required by the department.

4 (b) The employer of the applicant shall make a reasonable
5 attempt to verify the information required under Subsection (a)(1).

6 [Sections 781.157-781.200 reserved for expansion]

7 SUBCHAPTER E. GENERAL PROVISIONS APPLICABLE TO REGULATED PERSONS

8 Sec. 781.201. CRIMINAL HISTORY CHECK. (a) The department
9 shall conduct a criminal history check, including a check of any
10 criminal history record information maintained by the Department of
11 Public Safety, that relates to each applicant for a license or
12 registration. An applicant is not eligible for a license or
13 registration if the check reveals that the applicant has committed
14 an act that constitutes grounds for the denial of the license or
15 registration.

16 (b) A license or registration issued by the department is
17 conditional on the department's receipt of criminal history record
18 information.

19 Sec. 781.202. ALARM SYSTEMS RECORDS CONFIDENTIAL.
20 Information contained in alarm systems records maintained by a
21 governmental body that concerns the location of an alarm system,
22 the name of the occupant of an alarm system location, or the type of
23 alarm system used is confidential and may be disclosed only to the
24 department or as otherwise required by state law or court order.

25 Sec. 781.203. FALSE REPRESENTATION. A person may not
26 represent falsely that the person:

27 (1) is employed by a license holder; or

1 (2) is licensed or registered under this chapter.

2 Sec. 781.204. PROHIBITION AGAINST CERTAIN POLITICAL
3 SUBDIVISIONS ACTING AS ALARM SYSTEMS COMPANY. (a) Except as
4 provided by Subsection (b), a political subdivision may not offer
5 alarm system sales, service, installation, or monitoring unless it
6 was providing monitoring services to residences within the
7 boundaries of the political subdivision on September 1, 1999. Any
8 fee charged by the political subdivision may not exceed the cost of
9 the monitoring.

10 (b) A political subdivision may:

11 (1) offer service, installation, or monitoring for
12 property owned by the political subdivision or another political
13 subdivision;

14 (2) allow for the response of an alarm or detection
15 device by a law enforcement agency or by a law enforcement officer
16 acting in an official capacity;

17 (3) offer monitoring in connection with a criminal
18 investigation; or

19 (4) offer monitoring to a financial institution, as
20 defined by Section 201.101, Finance Code, that requests, in
21 writing, that the political subdivision provide monitoring service
22 to the financial institution.

23 (c) The limitations of Subsection (a) do not apply to a
24 political subdivision in a county with a population of less than
25 80,000 or to a political subdivision where monitoring is not
26 otherwise provided or available.

27 [Sections 781.205-781.250 reserved for expansion]

1 SUBCHAPTER F. EXPIRATION; RENEWAL

2 Sec. 781.251. EXPIRATION. (a) A license is valid for two
3 years from the date of issuance. A license expires at midnight on
4 the last day of the 23rd month after the month in which it is issued.

5 (b) Registration as a manager, branch office manager, alarm
6 systems installer, or security salesperson expires on the second
7 anniversary of the date of registration.

8 (c) Registration as an owner, officer, partner, or
9 shareholder of a license holder expires on the second anniversary
10 of the date of registration.

11 Sec. 781.252. LICENSE RENEWAL. (a) A person who is
12 otherwise eligible to renew a license may renew an unexpired
13 license by paying the required renewal fee to the department before
14 the expiration date of the license. A person whose license has
15 expired may not engage in activities that require a license until
16 the license has been renewed.

17 (b) A person whose license has been expired for 90 days or
18 less may renew the license by paying to the department a renewal fee
19 that is equal to 1-1/2 times the normally required renewal fee.

20 (c) A person whose license has been expired for longer than
21 90 days but less than one year may renew the license by paying to the
22 department a renewal fee that is equal to two times the normally
23 required renewal fee.

24 (d) A person whose license has been expired for one year or
25 more may not renew the license. The person may obtain a new license
26 by complying with the requirements and procedures for obtaining an
27 original license.

1 (e) Not later than the 30th day before the date a person's
2 license is scheduled to expire, the department shall send written
3 notice of the impending expiration to the person at the person's
4 last known address according to the department's records.

5 Sec. 781.253. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE
6 PRACTITIONER. A person who was licensed in this state, moved to
7 another state, and is currently licensed and has been in practice in
8 the other state for the two years preceding the date the person
9 applies for renewal may obtain a new license. The person must pay
10 to the department a fee that is equal to two times the normally
11 required renewal fee for the license.

12 Sec. 781.254. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.
13 The department by rule may adopt a system under which licenses
14 expire on various dates during the year. For the year in which the
15 expiration date of a license is changed, the department shall
16 prorate license fees on a monthly basis so that each license holder
17 pays only that portion of the license fee that is allocable to the
18 number of months during which the license is valid. On renewal of
19 the license on the new expiration date, the total license renewal
20 fee is payable.

21 Sec. 781.255. EFFECT OF LICENSE RENEWAL ON DISCIPLINARY
22 ACTION. Renewal of a license does not prohibit the bringing of a
23 disciplinary proceeding for an act committed before the effective
24 date of the renewal.

25 Sec. 781.256. EFFECT OF SUSPENSION ON LICENSE RENEWAL
26 REQUIREMENTS. A suspended license expires on the license's
27 expiration date and may be renewed as provided by this chapter. The

1 renewal does not entitle the license holder, while the license
2 remains suspended and until the license is reinstated, to engage in
3 the licensed activity or in conduct in violation of the order or
4 judgment by which the license was suspended.

5 Sec. 781.257. REGISTRATION RENEWAL. (a) An individual who
6 is otherwise eligible to renew a registration may renew an
7 unexpired registration by paying the required renewal fee to the
8 department before the expiration date of the registration. An
9 individual whose registration has expired may not engage in
10 activities that require a registration until the registration has
11 been renewed.

12 (b) An individual whose registration has been expired for 90
13 days or less may renew the registration by paying to the department
14 a renewal fee that is equal to 1-1/2 times the normally required
15 renewal fee.

16 (c) An individual whose registration has been expired for
17 more than 90 days but less than one year may renew the registration
18 by paying to the department a renewal fee that is equal to two times
19 the normally required renewal fee.

20 (d) An individual whose registration has been expired for
21 one year or more may not renew the registration. The individual may
22 obtain a new registration by complying with the requirements and
23 procedures for obtaining an original registration.

24 (e) An individual who was registered in this state, moved to
25 another state, and is currently registered and has been in practice
26 in the other state for the two years preceding the date of
27 application may obtain a new registration. The individual must pay

1 to the department a fee that is equal to two times the normally
2 required renewal fee for the registration.

3 (f) Not later than the 30th day before the expiration date
4 of an individual's registration, the department shall send written
5 notice of the impending expiration to the individual at the
6 individual's last known address according to department records.

7 Sec. 781.258. CONTINUING EDUCATION. (a) The department
8 may recognize, prepare, or administer continuing education
9 programs for license holders and registrants. The department shall
10 set the minimum number of hours that must be completed and the types
11 of programs that may be offered.

12 (b) A license holder or registrant must participate in the
13 programs to the extent required by the department to keep the
14 person's license or registration. A license holder or registrant
15 shall submit evidence of compliance with the department's
16 continuing education requirements in a manner prescribed by the
17 department.

18 [Sections 781.259-781.300 reserved for expansion]

19 SUBCHAPTER G. EXCEPTIONS

20 Sec. 781.301. GOVERNMENT EMPLOYEES. This chapter does not
21 apply to an officer or employee of the United States, this state, or
22 a political subdivision of this state while the officer or employee
23 is performing official duties.

24 Sec. 781.302. LAW ENFORCEMENT PERSONNEL. This chapter does
25 not apply to:

26 (1) a person who has full-time employment as a peace
27 officer and who receives compensation for private employment on an

1 individual or an independent contractor basis as a patrolman,
2 guard, extra job coordinator, or watchman if the officer:

3 (A) is employed in an employee-employer
4 relationship or employed on an individual contractual basis;

5 (B) is not in the employ of another peace
6 officer;

7 (C) is not a reserve peace officer; and

8 (D) works as a peace officer on the average of at
9 least 32 hours a week, is compensated by the state or a political
10 subdivision of the state at least at the minimum wage, and is
11 entitled to all employee benefits offered to a peace officer by the
12 state or political subdivision;

13 (2) a reserve peace officer while the reserve officer
14 is performing guard, patrolman, or watchman duties for a county and
15 is being compensated solely by that county;

16 (3) a peace officer acting in an official capacity in
17 responding to a burglar alarm or detection device; or

18 (4) a person engaged in the business of electronic
19 monitoring of an individual as a condition of that individual's
20 community supervision, parole, mandatory supervision, or release
21 on bail, if the person does not perform any other service that
22 requires a license under this chapter.

23 Sec. 781.303. MEDICAL ALERT SERVICES. This chapter does
24 not apply to an entity that is a hospital or a wholly owned
25 subsidiary or an affiliate of a hospital licensed under Chapter
26 241.

27 [Sections 781.304-781.350 reserved for expansion]

1 SUBCHAPTER H. DISCIPLINARY PROCEDURES

2 Sec. 781.351. GROUNDS FOR DISCIPLINARY ACTION. (a) For a
3 violation of this chapter or a rule adopted under this chapter, the
4 department may:

5 (1) revoke or suspend the person's license or
6 registration;

7 (2) place on probation the person if the person's
8 license or registration has been suspended; or

9 (3) reprimand the license holder or registrant.

10 (b) The department shall take disciplinary action described
11 by Subsection (a) on proof:

12 (1) that the applicant, license holder, or registrant
13 has:

14 (A) violated this chapter or a department rule
15 adopted under this chapter;

16 (B) been convicted of a Class B misdemeanor or
17 equivalent offense if the fifth anniversary of the date of the
18 conviction has occurred;

19 (C) engaged in fraud, deceit, or
20 misrepresentation; or

21 (D) made a material misstatement in an
22 application for or renewal of a license or registration; or

23 (2) that the license holder of a registrant has
24 submitted to the department sufficient evidence that the
25 registrant:

26 (A) engaged in fraud or deceit while employed by
27 the license holder; or

1 (B) committed theft while performing work as a
2 registrant.

3 Sec. 781.352. HEARING. (a) If the department proposes to
4 revoke or suspend a person's license or registration, the person is
5 entitled to a hearing before a hearings officer appointed by the
6 State Office of Administrative Hearings.

7 (b) The commissioner shall prescribe procedures for
8 appealing to the department a decision to revoke or suspend a
9 license or registration.

10 Sec. 781.353. ADMINISTRATIVE PROCEDURE. A proceeding under
11 this chapter to suspend or revoke a license or registration is
12 governed by Chapter 2001, Government Code.

13 Sec. 781.354. PROBATION. The department may require a
14 person whose license or registration suspension is probated to:

15 (1) report regularly to the department on matters that
16 are the basis of the probation;

17 (2) limit practice to areas prescribed by the
18 department; or

19 (3) continue the person's professional education until
20 the license or registration holder attains a degree of skill
21 satisfactory to the department in those areas that are the basis of
22 the probation.

23 Sec. 781.355. EFFECT OF SUSPENSION; MONITORING OF EXISTING
24 ALARM CONTRACTS. Subject to expiration of the license under
25 Section 781.251, a license holder may continue to monitor under an
26 existing alarm contract or contract to monitor under an existing
27 alarm contract for 30 days after the date of suspension of the

1 person's license.

2 [Sections 781.356-781.400 reserved for expansion]

3 SUBCHAPTER I. ENFORCEMENT

4 Sec. 781.401. INJUNCTION. The department shall prosecute
5 or file suit to enjoin a violation of this chapter or a rule adopted
6 under this chapter.

7 Sec. 781.402. CIVIL PENALTY. (a) A person who violates
8 this chapter or a rule adopted under this chapter is liable for a
9 civil penalty not to exceed \$5,000 a day.

10 (b) At the request of the department, the attorney general
11 may bring an action to recover a civil penalty authorized under this
12 section.

13 (c) The attorney general may recover reasonable expenses
14 incurred in obtaining a civil penalty under this section, including
15 court costs, reasonable attorney's fees, investigative costs,
16 witness fees, and deposition expenses.

17 Sec. 781.403. OFFENSE. (a) A person commits an offense if
18 the person:

19 (1) knowingly falsifies fingerprints or photographs
20 submitted to the department;

21 (2) contracts with or employs a person who is required
22 to hold a license or registration under this chapter knowing that
23 the person does not hold the required license or registration or who
24 otherwise, at the time of contract or employment, is in violation of
25 this chapter; or

26 (3) violates a provision of this chapter.

27 (b) An offense under Subsection (a)(1) is a felony of the

1 third degree.

2 (c) An offense under Subsection (a)(2) is a Class A
3 misdemeanor.

4 (d) An offense under Subsection (a)(3) is a Class A
5 misdemeanor, except that the offense is a felony of the third degree
6 if the person has previously been convicted under this chapter for
7 failing to hold a license or registration that the person is
8 required to hold under this chapter.

9 Sec. 781.404. VENUE. An offense under this chapter may be
10 prosecuted in Travis County or in the county in which the offense
11 occurred.

12 [Sections 781.405-781.450 reserved for expansion]

13 SUBCHAPTER J. ADMINISTRATIVE PENALTY

14 Sec. 781.451. IMPOSITION OF ADMINISTRATIVE PENALTY. The
15 department may impose an administrative penalty on a person
16 licensed under this chapter who violates this chapter or a rule or
17 order adopted under this chapter.

18 Sec. 781.452. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The
19 amount of the administrative penalty may not be less than \$50 or
20 more than \$5,000 for each violation. Each day a violation continues
21 or occurs is a separate violation for the purpose of imposing a
22 penalty.

23 (b) The amount shall be based on:

24 (1) the seriousness of the violation, including the
25 nature, circumstances, extent, and gravity of the violation;

26 (2) the economic harm caused by the violation;

27 (3) the history of previous violations;

- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

Sec. 781.453. REPORT AND NOTICE OF VIOLATION AND PENALTY.

(a) If the commissioner or the commissioner's designee determines that a violation occurred, the commissioner or the designee may issue to the department a report stating:

- (1) the facts on which the determination is based; and
- (2) the commissioner's or the designee's recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the penalty.

(b) Within 14 days after the date the report is issued, the commissioner or the commissioner's designee shall give written notice of the report to the person. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended administrative penalty; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 781.454. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Within 10 days after the date the person receives the notice, the person in writing may:

- (1) accept the determination and recommended administrative penalty of the commissioner or the commissioner's designee; or
- (2) make a request for a hearing on the occurrence of

1 the violation, the amount of the penalty, or both.

2 (b) If the person accepts the determination and recommended
3 penalty of the commissioner or the commissioner's designee, the
4 department by order shall approve the determination and impose the
5 recommended penalty.

6 Sec. 781.455. HEARING. (a) If the person requests a
7 hearing or fails to respond in a timely manner to the notice, the
8 commissioner or the commissioner's designee shall set a hearing and
9 give written notice of the hearing to the person.

10 (b) An administrative law judge of the State Office of
11 Administrative Hearings shall hold the hearing.

12 (c) The administrative law judge shall make findings of fact
13 and conclusions of law and promptly issue to the department a
14 proposal for a decision about the occurrence of the violation and
15 the amount of a proposed administrative penalty.

16 Sec. 781.456. DECISION BY DEPARTMENT. (a) Based on the
17 findings of fact, conclusions of law, and proposal for decision,
18 the department by order may determine that:

19 (1) a violation occurred and impose an administrative
20 penalty; or

21 (2) a violation did not occur.

22 (b) The notice of the department's order given to the person
23 must include a statement of the right of the person to judicial
24 review of the order.

25 Sec. 781.457. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

26 (a) Within 30 days after the date the department's order becomes
27 final, the person shall:

1 (1) pay the administrative penalty; or

2 (2) file a petition for judicial review contesting the
3 occurrence of the violation, the amount of the penalty, or both.

4 (b) Within the 30-day period prescribed by Subsection (a), a
5 person who files a petition for judicial review may:

6 (1) stay enforcement of the penalty by:

7 (A) paying the penalty to the court for placement
8 in an escrow account; or

9 (B) giving the court a supersedeas bond approved
10 by the court that:

11 (i) is for the amount of the penalty; and

12 (ii) is effective until all judicial review
13 of the department's order is final; or

14 (2) request the court to stay enforcement of the
15 penalty by:

16 (A) filing with the court a sworn affidavit of
17 the person stating that the person is financially unable to pay the
18 penalty and is financially unable to give the supersedeas bond; and

19 (B) giving a copy of the affidavit to the
20 commissioner or the commissioner's designee by certified mail.

21 (c) If the commissioner or the commissioner's designee
22 receives a copy of an affidavit under Subsection (b)(2), the
23 commissioner or the designee may file with the court, within five
24 days after the date the copy is received, a contest to the
25 affidavit.

26 (d) The court shall hold a hearing on the facts alleged in
27 the affidavit as soon as practicable and shall stay the enforcement

1 of the penalty on finding that the alleged facts are true. The
2 person who files an affidavit has the burden of proving that the
3 person is financially unable to pay the penalty and to give a
4 supersedeas bond.

5 Sec. 781.458. COLLECTION OF PENALTY. (a) If the person
6 does not pay the administrative penalty and the enforcement of the
7 penalty is not stayed, the penalty may be collected.

8 (b) The attorney general may sue to collect the penalty.

9 Sec. 781.459. DETERMINATION BY COURT. (a) If the court
10 sustains the determination that a violation occurred, the court may
11 uphold or reduce the amount of the administrative penalty and order
12 the person to pay the full or reduced amount of the penalty.

13 (b) If the court does not sustain the finding that a
14 violation occurred, the court shall order that a penalty is not
15 owed.

16 Sec. 781.460. REMITTANCE OF PENALTY AND INTEREST. (a) If
17 the person paid the administrative penalty and if the amount of the
18 penalty is reduced or the penalty is not upheld by the court, the
19 court shall order, when the court's judgment becomes final, that
20 the appropriate amount plus accrued interest be remitted to the
21 person.

22 (b) The interest accrues at the rate charged on loans to
23 depository institutions by the New York Federal Reserve Bank.

24 (c) The interest shall be paid for the period beginning on
25 the date the penalty is paid and ending on the date the penalty is
26 remitted.

27 (d) If the person gave a supersedeas bond and the penalty is

1 not upheld by the court, the court shall order, when the court's
2 judgment becomes final, the release of the bond.

3 (e) If the person gave a supersedeas bond and the amount of
4 the penalty is reduced, the court shall order the release of the
5 bond after the person pays the reduced amount.

6 Sec. 781.461. ADMINISTRATIVE PROCEDURE. A proceeding under
7 this subchapter is a contested case under Chapter 2001, Government
8 Code.

9 SECTION 10. Section 1702.006, Occupations Code, is
10 repealed.

11 SECTION 11. Section 1702.286, Occupations Code, as added by
12 this Act, applies only to an alarm system installed or activated on
13 or after January 1, 2006.

14 SECTION 12. (a) A license or registration issued under
15 Chapter 1702, Occupations Code, immediately before the effective
16 date of this Act to a person listed in Subsection (b) of this
17 section shall remain valid under Chapter 781, Health and Safety
18 Code, as added by this Act.

19 (b) Subsection (a) of this section applies to:

20 (1) an alarm systems company that sells, installs,
21 services, or responds to only personal emergency response systems;

22 (2) an alarm systems installer who installs,
23 maintains, or repairs only personal emergency response systems;

24 (3) a manager or branch office manager of an alarm
25 systems company described by Subdivision (1) of this subsection;

26 (4) a security salesperson who is employed by an alarm
27 systems company described by Subdivision (1) of this subsection to

1 sell services offered by the company; or

2 (5) an owner, officer, partner, or shareholder of an
3 alarm systems company described by Subdivision (1) of this
4 subsection.

5 (c) The change in law made by this Act does not affect a
6 disciplinary action regarding a personal emergency response system
7 pending under Chapter 1702, Occupations Code, on the effective date
8 of this Act. The Department of State Health Services shall continue
9 the proceeding under that chapter after the effective date of this
10 Act, and the former law is continued in effect for that purpose.

11 (d) The change in law made by this Act does not affect an
12 action involving the prosecution of an offense or any other
13 enforcement action under Subchapter P or Q, Chapter 1702,
14 Occupations Code, regarding a personal emergency response system
15 pending on the effective date of this Act. The prosecution or
16 action shall continue under that chapter after the effective date
17 of this Act, and the former law is continued in effect for that
18 purpose.

19 SECTION 13. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 568 passed the Senate on April 7, 2005, by the following vote: Yeas 26, Nays 0; and that the Senate concurred in House amendments on May 29, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 568 passed the House, with amendments, on May 25, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor