

By: Carona

S.B. No. 1244

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of investigations companies and the performance of investigative services.

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

SECTION 1. Section 1702.104, Occupations Code, is amended to read as follows:

Sec. 1702.104. INVESTIGATIONS COMPANY. (a) A person acts as an investigations company for the purposes of this chapter if the person:

(1) engages in the business of obtaining or furnishing, or accepts employment to obtain or furnish, information related to:

(A) crime or wrongs done or threatened against a person, state, or the United States;

(B) the identity, habits, business, occupation, knowledge, efficiency, loyalty, movement, location, affiliations, associations, transactions, acts, reputation, or character of a person;

(C) the location, disposition, or recovery of lost or stolen property; or

(D) the cause or responsibility for a fire, libel, loss, accident, damage, or injury to a person or to property;

(2) engages in the business of securing, or accepts employment to secure, evidence for use before a court, board,

1 officer, or investigating committee;

2 (3) engages in the business of securing, or accepts
3 employment to secure, the electronic tracking of the location of an
4 individual or motor vehicle other than for criminal justice
5 purposes by or on behalf of a governmental entity; or

6 (4) engages in the business of protecting, or accepts
7 employment to protect, an individual from bodily harm through the
8 use of a personal protection officer.

9 (b) For purposes of Subsection (a)(1), obtaining or
10 furnishing information includes information obtained or furnished
11 through the review and analysis of, and the investigation into the
12 content of, computer-based data not available to the public. The
13 repair or maintenance of a computer does not constitute an
14 investigation for purposes of this section and does not require
15 licensing under this chapter if:

16 (1) the review or analysis of computer-based data is
17 performed only to diagnose a computer or software problem;

18 (2) there is no intent to obtain or furnish
19 information described by Subsection (a)(1); and

20 (3) the discovery of any information described by
21 Subsection (a)(1) is inadvertent.

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 while selling equipment intended for resale;

27 (2) a person engaged exclusively in the business of

1 obtaining and providing information to:

2 (A) determine creditworthiness;

3 (B) collect debts; or

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

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

10 (4) a person who is engaged in the business of
11 psychological testing or other testing and interviewing services,
12 including services to determine attitudes, honesty, intelligence,
13 personality, and skills, for preemployment purposes;

14 (5) a person who:

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

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

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

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

27 (7) an employee of a cattle association who inspects

1 livestock brands under the authority granted to the cattle
2 association by the Grain Inspection, Packers and Stockyards
3 Administration of the United States Department of Agriculture;

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

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

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

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

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

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

17 (B) repairs an electronic security device; or

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

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

22 (14) a person or firm licensed as an accountant or
23 accounting firm under Chapter 901, an owner of an accounting firm,
24 or an employee of an accountant or accounting firm while performing
25 services regulated under Chapter 901; ~~or~~

26 (15) a retailer, wholesaler, or other person who sells
27 mechanical security devices, including locks and deadbolts, but who

1 does not:

2 (A) service mechanical security devices for the
3 public outside of the person's premises; or

4 (B) claim to act as a locksmith; or

5 (16) an employee while performing investigative
6 services that would otherwise be subject to this chapter for an
7 entity regulated by the:

8 (A) Texas Department of Insurance;

9 (B) Office of Thrift Supervision;

10 (C) Securities and Exchange Commission;

11 (D) Federal Deposit Insurance Corporation;

12 (E) National Association of Securities Dealers;

13 or

14 (F) Financial Industry Regulatory Authority.

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2009.