

By: Carona

S.B. No. 1245

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the business of private security.

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

SECTION 1. Section 1702.002, Occupations Code, is amended by amending Subdivision (1-a) and adding Subdivisions (16-a) and (20-a) to read as follows:

(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 a computer or data processor that records or archives the voice, visual image, or identifying information of the user ~~[an alarm system]~~.

(16-a) "Personal protection officer" means a person who performs the activities described by Section 1702.202.

(20-a) "Security officer" means a person who performs the activities described by Section 1702.222.

SECTION 2. Section 1702.047, Occupations Code, is amended to read as follows:

Sec. 1702.047. ADMINISTRATIVE STAFF. The department shall designate a department employee who shall report directly to the board. The employee designated under this section shall provide administrative assistance to ~~[assist]~~ the board in the performance ~~[administration]~~ of the board's duties. ~~[The salary for an~~

1 ~~employee designated under this section may not exceed the salary~~  
2 ~~specified in the General Appropriations Act for an employee subject~~  
3 ~~to salary group A10.]~~

4 SECTION 3. Section 1702.082(e), Occupations Code, is  
5 amended to read as follows:

6 (e) On written request, the department [~~The commission, at~~  
7 ~~least quarterly until final disposition of the complaint,~~] shall  
8 inform [~~notify~~] the person filing the complaint and each person who  
9 is a subject of the complaint of the status of the investigation  
10 unless the information [~~notice~~] would jeopardize an ongoing  
11 [~~undercover~~] investigation.

12 SECTION 4. Subchapter A, Chapter 1702, Occupations Code, is  
13 amended by adding Section 1702.006 to read as follows:

14 Sec. 1702.006. FOREIGN ENTITY REGISTRATION. Licensure  
15 under this chapter does not exempt a foreign entity from the  
16 registration requirements of Chapter 9, Business Organizations  
17 Code.

18 SECTION 5. Section 1702.1056(a), Occupations Code, is  
19 amended to read as follows:

20 (a) A person acts as a locksmith company for the purposes of  
21 this chapter if the person:

22 (1) sells, installs, services, or maintains, or offers  
23 to sell, install, service, or maintain, mechanical security  
24 devices, including deadbolts and locks;

25 (2) advertises services offered by the company using  
26 the term "locksmith"; or

27 (3) includes the term "locksmith" in the company's

1 name.

2 SECTION 6. Section 1702.110, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1702.110. APPLICATION FOR LICENSE. (a) An  
5 application for a license under this chapter must be in the form  
6 prescribed by the board [~~commission~~] and include:

7 (1) the full name and business address of the  
8 applicant;

9 (2) the name under which the applicant intends to do  
10 business;

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

13 (4) a statement as to the classification for which the  
14 applicant requests qualification;

15 (5) if the applicant is an entity other than an  
16 individual, the full name and residence address of each partner,  
17 officer who oversees the security-related aspects of the business,  
18 and director of the applicant, and of the applicant's manager;

19 (6) if the applicant is an individual, two  
20 classifiable sets of fingerprints of the applicant or, if the  
21 applicant is an entity other than an individual, of each officer who  
22 oversees the security-related aspects of the business and of each  
23 partner or shareholder who owns at least a 25 percent interest in  
24 the applicant;

25 (7) a verified statement of the applicant's experience  
26 qualifications in the particular classification in which the  
27 applicant is applying;

1           (8) a report from the department [~~Texas Department of~~  
2 ~~Public Safety~~] stating the applicant's record of any convictions  
3 for a Class B misdemeanor or equivalent offense or a greater  
4 offense;

5           (9) the social security number of the individual  
6 making the application; and

7           (10) other information, evidence, statements, or  
8 documents required by the board [~~commission~~].

9           (b) An applicant for a license as a security services  
10 contractor shall maintain a physical address within this state and  
11 provide that address to the board. The board shall adopt rules to  
12 enable an out-of-state license holder to comply with this  
13 subsection.

14           SECTION 7. Section 1702.112, Occupations Code, is amended  
15 to read as follows:

16           Sec. 1702.112. FORM OF LICENSE. The board [~~commission~~]  
17 shall prescribe the form of a license, including a branch office  
18 license. The license must include:

19           (1) the name of the license holder;

20           (2) the name under which the license holder is to  
21 operate; [~~and~~]

22           (3) the license number and the date the license was  
23 issued; and

24           (4) a photograph of the license holder, affixed to the  
25 license at the time the license is issued by the board.

26           SECTION 8. Section 1702.121, Occupations Code, is amended  
27 to read as follows:

1           Sec. 1702.121. TERMINATION OF MANAGER. (a)       A license  
2 holder shall notify the board [~~commission~~] in writing not later  
3 than the 14th day after the date a manager ceases to be manager of  
4 the license holder's business. The license remains in effect for a  
5 reasonable period after notice is given as provided by board  
6 [~~commission~~] rule pending the board's [~~commission's~~] determination  
7 of the qualification of another manager under this subchapter.

8           (b) A manager shall be immediately terminated on the  
9 effective date of any summary action taken against the manager. Any  
10 period of temporary operation authorized under this section or  
11 Section 1702.122 starts on the date of termination.

12           SECTION 9. Section 1702.127, Occupations Code, is amended  
13 by amending Subsections (b) and (c) and adding Subsection (d) to  
14 read as follows:

15           (b) A license holder shall maintain a record containing  
16 information related to the license holder's employees as required  
17 by the board [~~commission~~].

18           (c) A license holder shall maintain for [~~commission~~]  
19 inspection by the department at the license holder's principal  
20 place of business or branch office two recent color photographs, of  
21 a type required by the board [~~commission~~], of each applicant,  
22 registrant, commissioned security officer, and employee of the  
23 license holder.

24           (d) A license holder shall maintain records required under  
25 this chapter at a physical address within this state and provide  
26 that address to the board.

27           SECTION 10. Section 1702.163, Occupations Code, is amended

1 by adding Subsection (d-1) to read as follows:

2 (d-1) For the purposes of determining eligibility under  
3 Subsection (b)(2), the department may require the applicant to  
4 authorize the release to the department of any relevant medical  
5 records.

6 SECTION 11. Section 1702.201, Occupations Code, is amended  
7 to read as follows:

8 Sec. 1702.201. PERSONAL PROTECTION OFFICER AUTHORIZATION  
9 REQUIRED. An individual [~~A commissioned security officer~~] may not  
10 act as a personal protection officer unless the individual  
11 [~~officer~~] holds a personal protection officer authorization.

12 SECTION 12. Section 1702.202, Occupations Code, is amended  
13 to read as follows:

14 Sec. 1702.202. PERSONAL PROTECTION OFFICER. An individual  
15 acts as a personal protection officer if the individual, while  
16 carrying a firearm, [+  
17

18 [~~(1) has been issued a security officer commission to~~  
19 ~~carry a concealed firearm, and~~

20 [~~(2)~~] provides to another [~~an~~] individual personal  
21 protection from bodily harm.

22 SECTION 13. Section 1702.206, Occupations Code, is amended  
23 to read as follows:

24 Sec. 1702.206. LIMITED AUTHORITY TO CARRY [~~CONCEALED~~]  
25 FIREARMS. (a) An individual acting as a personal protection  
26 officer may not carry a [~~concealed~~] firearm unless the officer:

27 (1) is either:

(A) engaged in the exclusive performance of the

1 officer's duties as a personal protection officer for the employer  
2 under whom the officer's personal protection officer authorization  
3 is issued; or

4 (B) traveling to or from the officer's place of  
5 assignment; and

6 (2) carries the officer's security officer commission  
7 and personal protection officer authorization on the officer's  
8 person while performing the officer's duties or traveling as  
9 described by Subdivision (1) and presents the commission and  
10 authorization on request.

11 (b) An individual who is acting as a personal protection  
12 officer and is wearing the uniform of a security officer, including  
13 any uniform or apparel described by Section 1702.323(d), may not  
14 conceal any firearm the individual is carrying and shall carry the  
15 firearm in plain view. An individual who is acting as a personal  
16 protection officer and is not wearing the uniform of a security  
17 officer shall conceal the firearm.

18 SECTION 14. Section 1702.221(a), Occupations Code, is  
19 amended to read as follows:

20 (a) An individual must register in accordance with the  
21 requirements of this chapter and related administrative rules if  
22 the individual:

23 (1) is employed as an alarm systems installer, alarm  
24 systems monitor, electronic access control device installer,  
25 locksmith, dog trainer, manager or branch office manager,  
26 noncommissioned security officer, private investigator, private  
27 security consultant, or security salesperson; or

1           (2) is an owner, officer who oversees the  
2 security-related aspects of the business, partner, or shareholder  
3 of a license holder.

4           SECTION 15. Section 1702.230, Occupations Code, is amended  
5 by amending Subsection (b) and adding Subsection (c) to read as  
6 follows:

7           (b) The employer of the applicant shall make a reasonable  
8 attempt to verify the information required under Subsection (a)(1)  
9 before the earlier of:

- 10                 (1) the date the application is submitted; or  
11                 (2) the date the applicant begins to perform the  
12 duties of employment that require registration.

13           (c) An applicant must submit an application that  
14 substantially meets the requirements of this section before  
15 employment in a capacity for which registration is required.

16           SECTION 16. Section 1702.232(c), Occupations Code, is  
17 amended to read as follows:

- 18           (c) The pocket card must:
- 19                 (1) state the name of the registrant;
- 20                 (2) contain a color photograph, affixed to the pocket  
21 card by the board at the time the card is issued, and the signature  
22 of the registrant; and
- 23                 (3) state the date the card was issued and the card's  
24 expiration date.

25           SECTION 17. Section 1702.282(a), Occupations Code, is  
26 amended to read as follows:

27           (a) The board shall conduct a criminal history check,



1 including a check of any criminal history record information  
2 maintained by the Federal Bureau of Investigation, in the manner  
3 provided by Subchapter F, Chapter 411, Government Code, on each  
4 applicant for a license, registration, security officer  
5 commission, letter of approval, permit, or certification. As part  
6 of its criminal history check, the board may request that the  
7 applicant provide certified copies of relevant court documents or  
8 other records. The failure to provide the requested records within  
9 a reasonable time as determined by the board may result in the  
10 application being considered incomplete. An applicant is not  
11 eligible for a license, registration, commission, letter of  
12 approval, permit, or certification if the check reveals that the  
13 applicant has committed an act that constitutes grounds for the  
14 denial of the license, registration, commission, letter of  
15 approval, permit, or certification. Except as provided by  
16 Subsection (d), each applicant shall include in the application two  
17 complete sets of fingerprints on forms prescribed by the board  
18 accompanied by the fee set by the board.

19 SECTION 18. Section 1702.286, Occupations Code, as added by  
20 Chapter 1102 (H.B. 2243), Acts of the 79th Legislature, Regular  
21 Session, 2005, is renumbered as Section 1702.2865, Occupations  
22 Code, to read as follows:

23 Sec. 1702.2865 [~~1702.286~~]. CUSTOMER AUTHORIZATION REQUIRED  
24 FOR CERTAIN LOCKSMITH SERVICES. (a) A locksmith company or  
25 locksmith may not perform services for a customer who seeks entry to  
26 a structure, motor vehicle, or other property unless the customer,  
27 in the course of the transaction:

1           (1) shows the locksmith company or locksmith a  
2 government-issued identification; and

3           (2) provides a signed authorization stating that the  
4 customer owns or is otherwise entitled to legal access to the  
5 structure, motor vehicle, or other property.

6           (b) A locksmith company or locksmith is exempt from  
7 Subsection (a) if the locksmith is requested to perform services in  
8 a case of imminent threat to a person or property.

9           SECTION 19. Section 1702.322, Occupations Code, is amended  
10 to read as follows:

11           Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter  
12 does not apply to:

13           (1) a person who has full-time employment as a peace  
14 officer and who receives compensation for private employment on an  
15 individual or an independent contractor basis as a patrolman,  
16 guard, extra job coordinator, or watchman if the officer:

17                   (A) is employed in an employee-employer  
18 relationship or employed on an individual contractual basis  
19 directly by the recipient of the services;

20                   (B) is not in the employ of another peace  
21 officer;

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

23                   (D) works as a peace officer on the average of at  
24 least 32 hours a week, is compensated by the state or a political  
25 subdivision of the state at least at the minimum wage, and is  
26 entitled to all employee benefits offered to a peace officer by the  
27 state or political subdivision;

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

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

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

11           SECTION 20. Section 1702.361(a), Occupations Code, is  
12 amended to read as follows:

13           (a) The [~~Subject to the board's final order under the~~  
14 ~~hearing provisions of this subchapter, the~~] department, for conduct  
15 described by Subsection (b), may:

16           (1) deny an application or revoke, suspend, or refuse  
17 to renew a license, registration, or security officer commission;

18           (2) reprimand a license holder, registrant, or  
19 commissioned security officer; or

20           (3) place on probation a person whose license,  
21 registration, or security officer commission has been suspended.

22           SECTION 21. Section 1702.367, Occupations Code, is amended  
23 by amending Subsection (a) and adding Subsections (f) and (g) to  
24 read as follows:

25           (a) For an investigation conducted under this chapter, if  
26 necessary to enforce this chapter or the board's rules, the  
27 department [~~the commission~~] may issue an administrative [~~a~~]

1 subpoena to any person in this state compelling:

2 (1) the production of information or documents; or

3 (2) the attendance and testimony of a witness [~~to~~

4 ~~compel the attendance of a witness or the production of a pertinent~~

5 ~~record or document. The hearings officer may administer oaths and~~

6 ~~require testimony or evidence to be given under oath].~~

7 (f) A person licensed or otherwise regulated under this

8 chapter who fails without good cause to comply with a subpoena

9 issued under this section may be subject to suspension of a license

10 under Section 1702.361.

11 (g) If a subpoena issued under this section relates to an

12 ongoing criminal investigation by the department and the department

13 determines that disclosure could significantly impede the

14 investigation, the subpoena may provide that the person to whom the

15 subpoena is directed may not:

16 (1) disclose that the subpoena has been issued;

17 (2) identify or describe any records requested by the

18 subpoena; or

19 (3) disclose whether records have been furnished in

20 response to the subpoena.

21 SECTION 22. Subchapter P, Chapter 1702, Occupations Code,

22 is amended by adding Section 1702.3835 to read as follows:

23 Sec. 1702.3835. DECEPTIVE TRADE PRACTICE. (a) A person who

24 performs or offers to perform an activity regulated under this

25 chapter, but who is not licensed or otherwise authorized under this

26 chapter to perform the activity, commits a false, misleading, or

27 deceptive act or practice within the meaning of Section 17.46,

1 Business & Commerce Code.

2 (b) A public or private right or remedy under Chapter 17,  
3 Business & Commerce Code, may be used to enforce this chapter.

4 SECTION 23. Section 46.03(d), Penal Code, is amended to  
5 read as follows:

6 (d) It is a defense to prosecution under Subsection (a)(5)  
7 that the actor possessed a firearm or club while traveling to or  
8 from the actor's place of assignment or in the actual discharge of  
9 duties as:

- 10 (1) a member of the armed forces or national guard;  
11 (2) a guard employed by a penal institution; or  
12 (3) a security officer commissioned by the Texas  
13 ~~[Board of Private Investigators and]~~ Private Security Board  
14 ~~[Agencies]~~ if:

15 (A) the actor is wearing a distinctive uniform;  
16 and

17 (B) the firearm or club is in plain view; or

18 (4) [(5)] a security officer who holds a personal  
19 protection authorization under Chapter 1702, Occupations Code,  
20 provided that the officer is either:

21 (A) wearing the uniform of a security officer,  
22 including any uniform or apparel described by Section 1702.323(d),  
23 Occupations Code, and carrying the officer's firearm in plain view;  
24 or

25 (B) not wearing the uniform of a security officer  
26 and carrying the officer's firearm in a concealed manner ~~[the~~  
27 ~~Private Investigators and Private Security Agencies Act (Article~~

1 ~~4413(29bb), Vernon's Texas Civil Statutes)].~~

2 SECTION 24. Section 46.15(b), Penal Code, as amended by  
3 Chapters 647 (H.B. 964), 693 (H.B. 1815), and 1048 (H.B. 2101), Acts  
4 of the 80th Legislature, Regular Session, 2007, is reenacted and  
5 amended to read as follows:

6 (b) Section 46.02 does not apply to a person who:

7 (1) is in the actual discharge of official duties as a  
8 member of the armed forces or state military forces as defined by  
9 Section 431.001, Government Code, or as a guard employed by a penal  
10 institution;

11 (2) is traveling;

12 (3) is engaging in lawful hunting, fishing, or other  
13 sporting activity on the immediate premises where the activity is  
14 conducted, or is en route between the premises and the actor's  
15 residence or motor vehicle, if the weapon is a type commonly used in  
16 the activity;

17 (4) holds a security officer commission issued by the  
18 Texas Private Security Board, if the person~~+~~

19 [~~(A)~~] is engaged in the performance of the  
20 person's duties as an officer commissioned under Chapter 1702,  
21 Occupations Code, or is traveling to or from the person's place of  
22 assignment~~+~~ and

23 [~~(B)~~] is ~~either~~

24 [~~(i)~~] wearing the officer's uniform and  
25 carrying the officer's weapon in plain view; ~~or~~

26 (5) acts [~~(ii) acting~~] as a personal protection  
27 officer and carries [~~carrying~~] the person's security officer

1 commission and personal protection officer authorization, if the  
2 person:

3 (A) is engaged in the performance of the person's  
4 duties as a personal protection officer under Chapter 1702,  
5 Occupations Code, or is traveling to or from the person's place of  
6 assignment; and

7 (B) is either:

8 (i) wearing the uniform of a security  
9 officer, including any uniform or apparel described by Section  
10 1702.323(d), Occupations Code, and carrying the officer's weapon in  
11 plain view; or

12 (ii) not wearing the uniform of a security  
13 officer and carrying the officer's weapon in a concealed manner;

14 (6) [~~5~~] is carrying a concealed handgun and a valid  
15 license issued under Subchapter H, Chapter 411, Government Code, to  
16 carry a concealed handgun of the same category as the handgun the  
17 person is carrying;

18 (7) [~~6~~] holds an alcoholic beverage permit or  
19 license or is an employee of a holder of an alcoholic beverage  
20 permit or license if the person is supervising the operation of the  
21 permitted or licensed premises; or

22 (8) [~~7~~] is a student in a law enforcement class  
23 engaging in an activity required as part of the class, if the weapon  
24 is a type commonly used in the activity and the person is:

25 (A) on the immediate premises where the activity  
26 is conducted; or

27 (B) en route between those premises and the

1 person's residence and is carrying the weapon unloaded.

2           SECTION 25. The change in law made by this Act to Sections  
3 1702.110, 1702.221(a), and 1702.282(a), Occupations Code, apply to  
4 an application under Chapter 1702, Occupations Code, submitted on  
5 or after the effective date of this Act. An application submitted  
6 before the effective date of this Act is governed by the law in  
7 effect on the date the application was submitted, and the former law  
8 is continued in effect for that purpose.

9           SECTION 26. To the extent of any conflict, this Act prevails  
10 over another Act of the 81st Legislature, Regular Session, 2009,  
11 relating to nonsubstantive additions to and corrections in enacted  
12 codes.

13           SECTION 27. This Act takes effect September 1, 2009.