

By: Fletcher

H.B. No. 3433

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain private security companies
and occupations; creating an offense.

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

SECTION 1. Section 1702.002(1-a), Occupations Code, is
amended 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 monitored by security personnel or a
security service and does not send a signal to which law enforcement
or emergency services respond [~~connected to a computer or data
processor that records or archives the voice, visual image, or
identifying information of the user~~].

SECTION 2. Section 1702.110, Occupations Code, is amended
by amending Subsection (a) and adding Subsection (c) to read as
follows:

(a) An application for a license under this chapter must be
in the form prescribed by the board and include:

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

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

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

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

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

9 (6) if the applicant is an individual, the [~~two~~
10 ~~classifiable sets of~~] fingerprints of the applicant or, if the
11 applicant is an entity other than an individual, of each officer who
12 oversees the security-related aspects of the business and of each
13 partner or shareholder who owns at least a 25 percent interest in
14 the applicant, provided in the manner prescribed by the board;

15 (7) a verified statement of the applicant's experience
16 qualifications in the particular classification in which the
17 applicant is applying;

18 (8) a report from the department stating the
19 applicant's record of any convictions for a Class B misdemeanor or
20 equivalent offense or a greater offense;

21 (9) the social security number of the individual
22 making the application; and

23 (10) other information, evidence, statements, or
24 documents required by the board.

25 (c) The department may return an application as incomplete
26 if the applicant submits payment of a fee that is returned for
27 insufficient funds and the applicant has received notice and an

1 opportunity to provide payment in full.

2 SECTION 3. Section 1702.113(a), Occupations Code, is
3 amended to read as follows:

4 (a) An applicant for a license, certificate of
5 registration, endorsement, or security officer commission or the
6 applicant's manager must be at least 18 years of age and must not:

7 (1) at the time of application be charged under an
8 information or indictment with the commission of a Class A or Class
9 B misdemeanor or felony offense determined by department rule to be
10 disqualifying [~~, under an information or indictment~~];

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

14 (3) have been dishonorably discharged from the United
15 States armed services, discharged from the United States armed
16 services under other conditions determined by the board to be
17 prohibitive, or dismissed from the United States armed services if
18 a commissioned officer in the United States armed services; or

19 (4) be required to register in this or any other state
20 as a sex offender, unless the applicant is approved by the board
21 under Section 1702.3615.

22 SECTION 4. Section 1702.121(b), Occupations Code, is
23 amended to read as follows:

24 (b) A manager shall [~~be~~] immediately cease all managerial
25 actions [~~terminated~~] on the effective date of any summary action
26 taken against the manager. Any period of temporary operation
27 authorized under this section or Section 1702.122 begins [~~starts~~]

1 on the effective date of the summary action [~~termination~~].

2 SECTION 5. Section 1702.124, Occupations Code, is amended
3 by adding Subsection (f) to read as follows:

4 (f) In addition to the requirements of this section, an
5 applicant or license holder shall provide and maintain a
6 certificate of insurance or other documentary evidence of insurance
7 sufficient to cover all of the business activities of the applicant
8 or license holder related to private security.

9 SECTION 6. Section 1702.282(a), Occupations Code, is
10 amended to read as follows:

11 (a) The board shall conduct a criminal history check,
12 including a check of any criminal history record information
13 maintained by the Federal Bureau of Investigation, in the manner
14 provided by Subchapter F, Chapter 411, Government Code, on each
15 applicant for a license, registration, security officer
16 commission, letter of approval, permit, endorsement, or
17 certification. As part of its criminal history check, the board
18 may request that the applicant provide certified copies of relevant
19 court documents or other records. The failure to provide the
20 requested records within a reasonable time as determined by the
21 board may result in the application being considered
22 incomplete. An applicant is not eligible for a license,
23 registration, commission, letter of approval, permit, endorsement,
24 or certification if the check reveals that the applicant has
25 committed an act that constitutes grounds for the denial of the
26 license, registration, commission, letter of approval, permit,
27 endorsement, or certification. Except as provided by Subsection

1 (d), each applicant shall submit at the time of [~~include in the~~
2 application, including an application for a license, registration,
3 commission, letter of approval, permit, endorsement, or
4 certification, [~~two complete sets of~~] fingerprints in the manner
5 [~~on forms~~] prescribed by the board accompanied by the fee set by the
6 board.

7 SECTION 7. Subchapter L, Chapter 1702, Occupations Code, is
8 amended by adding Section 1702.289 to read as follows:

9 Sec. 1702.289. INSPECTIONS. (a) In addition to other
10 inspections authorized by this chapter, an employee or agent of the
11 department or board, as applicable, may enter the place of business
12 of a person regulated under this chapter during normal business
13 hours for the purpose of conducting an inspection or audit to
14 determine the person's compliance with this chapter or a rule
15 adopted under this chapter.

16 (b) An employee or agent of the department or board, as
17 applicable, who enters the place of business of a person regulated
18 under this chapter for the purpose of conducting an inspection or
19 audit must:

20 (1) notify the manager or owner of the business of the
21 presence of the person conducting the inspection or audit; and

22 (2) present the manager or owner of the business with
23 credentials that identify the person conducting the inspection or
24 audit as an employee or agent of the department or board.

25 (c) This section does not prohibit the department or board
26 from conducting an undercover investigation or covert audit in
27 order to determine compliance with this chapter or a rule adopted

1 under this chapter.

2 SECTION 8. Section 1702.361, Occupations Code, is amended
3 by amending Subsection (b) and adding Subsection (d) to read as
4 follows:

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

7 (1) that the applicant, license holder, manager or
8 majority owner of a license holder, registrant, endorsement holder,
9 or commissioned security officer has:

10 (A) violated this chapter or a rule adopted under
11 this chapter;

12 (B) become ineligible for licensure,
13 registration, or endorsement under Section 1702.113, or a
14 commission under Section 1702.163, if applicable, other than an
15 action for which the department has taken summary action under
16 Section 1702.364;

17 (C) engaged in fraud, deceit, or
18 misrepresentation;

19 (D) made a material misstatement in an
20 application for or renewal of a license, registration, endorsement,
21 or commission;

22 (E) failed to pay in full an administrative
23 penalty assessed under Subchapter Q, for which the board has issued
24 a final order; [~~or~~]

25 (F) performed any service for which an
26 endorsement is required under this chapter and either:

27 (i) was not employed with a company

1 licensed under this chapter at the time the service was performed;
2 or

3 (ii) performed the service for a company
4 licensed under this chapter that was not listed on the individual's
5 registration without informing the board of the individual's
6 employment with the company within a reasonable period; or

7 (G) failed to qualify a new manager within the
8 time required by board rule following the termination of a manager;
9 or

10 (2) that the license holder of a registrant or
11 commissioned security officer has submitted to the department
12 sufficient evidence that the registrant or commissioned security
13 officer:

14 (A) engaged in fraud or deceit while employed by
15 the license holder; or

16 (B) committed theft while performing work as a
17 registrant or commissioned security officer.

18 (d) The department may revoke a license, certificate,
19 registration, endorsement, or commission if the person holding that
20 credential under this chapter submits payment of a fee or penalty
21 that is returned for insufficient funds and the person has received
22 notice and an opportunity to provide payment in full.

23 SECTION 9. Section 1702.364(a), Occupations Code, is
24 amended to read as follows:

25 (a) On receiving written notice from a law enforcement
26 agency that a person has been charged with or convicted of an
27 offense that would make the person ineligible for a license,

1 certificate of registration, endorsement, or security officer
2 commission under Section 1702.113 or 1702.163, or a rule adopted
3 under Section 1702.004(b), the department shall:

4 (1) summarily deny the person's application for a
5 license, registration, endorsement, or security officer
6 commission;

7 (2) in the event of pending charges, summarily suspend
8 the person's license, certificate of registration, endorsement, or
9 security officer commission; or

10 (3) in the event of a conviction, summarily revoke the
11 person's license, certificate of registration, endorsement, or
12 security officer commission.

13 SECTION 10. Subchapter P, Chapter 1702, Occupations Code,
14 is amended by adding Section 1702.3841 to read as follows:

15 Sec. 1702.3841. INSUFFICIENT INSURANCE COVERAGE; OFFENSE.

16 (a) A person commits an offense if the person is subject to Section
17 1702.124 and knowingly fails to provide and maintain a certificate
18 of insurance or other documentary evidence of insurance sufficient
19 to cover all of the business activities of the person related to
20 private security. One is presumed to have knowingly violated this
21 provision if reasonable notice and opportunity to cure the defect
22 has been provided prior to the violation.

23 (b) An offense under this section is a Class A misdemeanor.

24 SECTION 11. Section 12.092(b), Health and Safety Code, is
25 amended to read as follows:

26 (b) The medical advisory board shall assist the Department
27 of Public Safety of the State of Texas in determining whether:

1 (1) an applicant for a driver's license or a license
2 holder is capable of safely operating a motor vehicle; or

3 (2) an applicant for or holder of a license to carry a
4 concealed handgun under the authority of Subchapter H, Chapter 411,
5 Government Code, or an applicant for or holder of a commission as a
6 security officer under Chapter 1702, Occupations Code, is capable
7 of exercising sound judgment with respect to the proper use and
8 storage of a handgun.

9 SECTION 12. Sections 1702.113(b) and (c), Occupations Code,
10 are repealed.

11 SECTION 13. (a) The changes in law made by this Act to
12 Chapter 1702, Occupations Code, apply only to an application for an
13 original or renewal license, registration, or endorsement
14 submitted to the Texas Private Security Board on or after January 1,
15 2014. An application submitted before January 1, 2014, is governed
16 by the law in effect on the date the application was submitted, and
17 the former law is continued in effect for that purpose.

18 (b) The Texas Private Security Board shall adopt rules to
19 implement the changes in law made by this Act not later than January
20 1, 2014.

21 SECTION 14. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2013.