

1-1 By: Fletcher (Senate Sponsor - Estes) H.B. No. 3433
 1-2 (In the Senate - Received from the House May 6, 2013;
 1-3 May 15, 2013, read first time and referred to Committee on
 1-4 Agriculture, Rural Affairs, and Homeland Security; May 20, 2013,
 1-5 reported favorably by the following vote: Yeas 3, Nays 0;
 1-6 May 20, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11			X	
1-12	X			
1-13	X			

1-14 A BILL TO BE ENTITLED
 1-15 AN ACT

1-16 relating to the regulation of certain private security companies
 1-17 and occupations; creating an offense.

1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-19 SECTION 1. Section 1702.002(1-a), Occupations Code, is
 1-20 amended to read as follows:

1-21 (1-a) For purposes of Subdivision (1), the term "alarm
 1-22 system" does not include a telephone entry system, an operator for
 1-23 opening or closing a residential or commercial gate or door, or an
 1-24 accessory used only to activate a gate or door, if the system,
 1-25 operator, or accessory is not monitored by security personnel or a
 1-26 security service and does not send a signal to which law enforcement
 1-27 or emergency services respond [~~connected to a computer or data~~
 1-28 ~~processor that records or archives the voice, visual image, or~~
 1-29 ~~identifying information of the user~~].

1-30 SECTION 2. Section 1702.110, Occupations Code, is amended
 1-31 by amending Subsection (a) and adding Subsection (c) to read as
 1-32 follows:

1-33 (a) An application for a license under this chapter must be
 1-34 in the form prescribed by the board and include:

1-35 (1) the full name and business address of the
 1-36 applicant;

1-37 (2) the name under which the applicant intends to do
 1-38 business;

1-39 (3) a statement as to the general nature of the
 1-40 business in which the applicant intends to engage;

1-41 (4) a statement as to the classification for which the
 1-42 applicant requests qualification;

1-43 (5) if the applicant is an entity other than an
 1-44 individual, the full name and residence address of each partner,
 1-45 officer who oversees the security-related aspects of the business,
 1-46 and director of the applicant, and of the applicant's manager;

1-47 (6) if the applicant is an individual, the [~~two~~
 1-48 ~~classifiable sets of~~] fingerprints of the applicant or, if the
 1-49 applicant is an entity other than an individual, of each officer who
 1-50 oversees the security-related aspects of the business and of each
 1-51 partner or shareholder who owns at least a 25 percent interest in
 1-52 the applicant, provided in the manner prescribed by the board;

1-53 (7) a verified statement of the applicant's experience
 1-54 qualifications in the particular classification in which the
 1-55 applicant is applying;

1-56 (8) a report from the department stating the
 1-57 applicant's record of any convictions for a Class B misdemeanor or
 1-58 equivalent offense or a greater offense;

1-59 (9) the social security number of the individual
 1-60 making the application; and

1-61 (10) other information, evidence, statements, or

2-1 documents required by the board.

2-2 (c) The department may return an application as incomplete
 2-3 if the applicant submits payment of a fee that is returned for
 2-4 insufficient funds and the applicant has received notice and an
 2-5 opportunity to provide payment in full.

2-6 SECTION 3. Section 1702.113(a), Occupations Code, is
 2-7 amended to read as follows:

2-8 (a) An applicant for a license, certificate of
 2-9 registration, endorsement, or security officer commission or the
 2-10 applicant's manager must be at least 18 years of age and must not:

2-11 (1) at the time of application be charged under an
 2-12 information or indictment with the commission of a Class A or Class
 2-13 B misdemeanor or felony offense determined to be disqualifying by
 2-14 board rule [~~under an information or indictment~~];

2-15 (2) have been found by a court to be incompetent by
 2-16 reason of a mental defect or disease and not have been restored to
 2-17 competency;

2-18 (3) have been dishonorably discharged from the United
 2-19 States armed services, discharged from the United States armed
 2-20 services under other conditions determined by the board to be
 2-21 prohibitive, or dismissed from the United States armed services if
 2-22 a commissioned officer in the United States armed services; or

2-23 (4) be required to register in this or any other state
 2-24 as a sex offender, unless the applicant is approved by the board
 2-25 under Section 1702.3615.

2-26 SECTION 4. Section 1702.121(b), Occupations Code, is
 2-27 amended to read as follows:

2-28 (b) A manager shall [~~be~~] immediately cease all managerial
 2-29 actions [~~terminated~~] on the effective date of any summary action
 2-30 taken against the manager. Any period of temporary operation
 2-31 authorized under this section or Section 1702.122 begins [~~starts~~]
 2-32 on the effective date of the summary action [~~termination~~].

2-33 SECTION 5. Section 1702.124, Occupations Code, is amended
 2-34 by adding Subsection (f) to read as follows:

2-35 (f) In addition to the requirements of this section, an
 2-36 applicant or license holder shall provide and maintain a
 2-37 certificate of insurance or other documentary evidence of insurance
 2-38 sufficient to cover all of the business activities of the applicant
 2-39 or license holder related to private security.

2-40 SECTION 6. Section 1702.282(a), Occupations Code, is
 2-41 amended to read as follows:

2-42 (a) The board shall conduct a criminal history check,
 2-43 including a check of any criminal history record information
 2-44 maintained by the Federal Bureau of Investigation, in the manner
 2-45 provided by Subchapter F, Chapter 411, Government Code, on each
 2-46 applicant for a license, registration, security officer
 2-47 commission, letter of approval, permit, endorsement, or
 2-48 certification. As part of its criminal history check, the board
 2-49 may request that the applicant provide certified copies of relevant
 2-50 court documents or other records. The failure to provide the
 2-51 requested records within a reasonable time as determined by the
 2-52 board may result in the application being considered
 2-53 incomplete. An applicant is not eligible for a license,
 2-54 registration, commission, letter of approval, permit, endorsement,
 2-55 or certification if the check reveals that the applicant has
 2-56 committed an act that constitutes grounds for the denial of the
 2-57 license, registration, commission, letter of approval, permit,
 2-58 endorsement, or certification. Except as provided by Subsection
 2-59 (d), each applicant shall submit at the time of [~~include in the~~]
 2-60 application, including an application for the renewal of a license,
 2-61 registration, commission, letter of approval, permit, endorsement,
 2-62 or certification, [~~two complete sets of~~] fingerprints in the
 2-63 manner [~~on forms~~] prescribed by the board accompanied by the fee set
 2-64 by the board.

2-65 SECTION 7. Subchapter L, Chapter 1702, Occupations Code, is
 2-66 amended by adding Section 1702.289 to read as follows:

2-67 Sec. 1702.289. INSPECTIONS. (a) An employee or agent of the
 2-68 department or board, as applicable, who enters the place of
 2-69 business of a person regulated under this chapter for the purpose of

3-1 conducting an inspection or audit must:
 3-2 (1) notify the manager or owner of the business of the
 3-3 presence of the person conducting the inspection or audit; and
 3-4 (2) present the manager or owner of the business with
 3-5 credentials that identify the person conducting the inspection or
 3-6 audit as an employee or agent of the department or board.
 3-7 (b) This section does not prohibit the department or board
 3-8 from conducting an undercover investigation or covert audit in
 3-9 order to determine compliance with this chapter or a rule adopted
 3-10 under this chapter.
 3-11 SECTION 8. Section 1702.361, Occupations Code, is amended
 3-12 by amending Subsection (b) and adding Subsection (d) to read as
 3-13 follows:
 3-14 (b) The department shall take disciplinary action described
 3-15 by Subsection (a) on proof:
 3-16 (1) that the applicant, license holder, manager or
 3-17 majority owner of a license holder, registrant, endorsement holder,
 3-18 or commissioned security officer has:
 3-19 (A) violated this chapter or a rule adopted under
 3-20 this chapter;
 3-21 (B) become ineligible for licensure,
 3-22 registration, or endorsement under Section 1702.113, or a
 3-23 commission under Section 1702.163, if applicable, other than an
 3-24 action for which the department has taken summary action under
 3-25 Section 1702.364;
 3-26 (C) engaged in fraud, deceit, or
 3-27 misrepresentation;
 3-28 (D) made a material misstatement in an
 3-29 application for or renewal of a license, registration, endorsement,
 3-30 or commission;
 3-31 (E) failed to pay in full an administrative
 3-32 penalty assessed under Subchapter Q, for which the board has issued
 3-33 a final order; ~~or~~
 3-34 (F) performed any service for which an
 3-35 endorsement is required under this chapter and either:
 3-36 (i) was not employed with a company
 3-37 licensed under this chapter at the time the service was performed;
 3-38 or
 3-39 (ii) performed the service for a company
 3-40 licensed under this chapter that was not listed on the individual's
 3-41 registration without informing the board of the individual's
 3-42 employment with the company within a reasonable period; or
 3-43 (G) failed to qualify a new manager within the
 3-44 time required by board rule following the termination of a manager;
 3-45 or
 3-46 (2) that the license holder of a registrant or
 3-47 commissioned security officer has submitted to the department
 3-48 sufficient evidence that the registrant or commissioned security
 3-49 officer:
 3-50 (A) engaged in fraud or deceit while employed by
 3-51 the license holder; or
 3-52 (B) committed theft while performing work as a
 3-53 registrant or commissioned security officer.
 3-54 (d) The department may revoke a license, certificate,
 3-55 registration, endorsement, or commission if the person holding that
 3-56 credential under this chapter submits payment of a fee or penalty
 3-57 that is returned for insufficient funds and the person has received
 3-58 notice and an opportunity to provide payment in full.
 3-59 SECTION 9. Section 1702.364(a), Occupations Code, is
 3-60 amended to read as follows:
 3-61 (a) On receiving written notice from a law enforcement
 3-62 agency that a person has been charged with or convicted of an
 3-63 offense that would make the person ineligible for a license,
 3-64 certificate of registration, endorsement, or security officer
 3-65 commission under Section 1702.113 or 1702.163, or a rule adopted
 3-66 under Section 1702.004(b), the department shall:
 3-67 (1) summarily deny the person's application for a
 3-68 license, registration, endorsement, or security officer
 3-69 commission;

4-1 (2) in the event of pending charges, summarily suspend
4-2 the person's license, certificate of registration, endorsement, or
4-3 security officer commission; or

4-4 (3) in the event of a conviction, summarily revoke the
4-5 person's license, certificate of registration, endorsement, or
4-6 security officer commission.

4-7 SECTION 10. Subchapter P, Chapter 1702, Occupations Code,
4-8 is amended by adding Section 1702.3841 to read as follows:

4-9 Sec. 1702.3841. INSUFFICIENT INSURANCE COVERAGE; OFFENSE.

4-10 (a) A person commits an offense if the person is subject to Section
4-11 1702.124 and knowingly fails to provide and maintain a certificate
4-12 of insurance or other documentary evidence of insurance sufficient
4-13 to cover all of the business activities of the person related to
4-14 private security. A person is presumed to have acted knowingly for
4-15 purposes of this subsection if the person received reasonable
4-16 notice and an opportunity to provide or maintain the documentation
4-17 required by Section 1702.124 and failed to do so.

4-18 (b) An offense under this section is a Class A misdemeanor.

4-19 SECTION 11. Section 12.092(b), Health and Safety Code, is
4-20 amended to read as follows:

4-21 (b) The medical advisory board shall assist the Department
4-22 of Public Safety of the State of Texas in determining whether:

4-23 (1) an applicant for a driver's license or a license
4-24 holder is capable of safely operating a motor vehicle; or

4-25 (2) an applicant for or holder of a license to carry a
4-26 concealed handgun under the authority of Subchapter H, Chapter 411,
4-27 Government Code, or an applicant for or holder of a commission as a
4-28 security officer under Chapter 1702, Occupations Code, is capable
4-29 of exercising sound judgment with respect to the proper use and
4-30 storage of a handgun.

4-31 SECTION 12. Sections 1702.113(b) and (c), Occupations Code,
4-32 are repealed.

4-33 SECTION 13. (a) The changes in law made by this Act to
4-34 Chapter 1702, Occupations Code, apply only to an application for an
4-35 original or renewal license, registration, or endorsement
4-36 submitted to the Texas Private Security Board on or after January 1,
4-37 2014. An application submitted before January 1, 2014, is governed
4-38 by the law in effect on the date the application was submitted, and
4-39 the former law is continued in effect for that purpose.

4-40 (b) The Texas Private Security Board shall adopt rules to
4-41 implement the changes in law made by this Act not later than January
4-42 1, 2014.

4-43 SECTION 14. This Act takes effect immediately if it
4-44 receives a vote of two-thirds of all the members elected to each
4-45 house, as provided by Section 39, Article III, Texas Constitution.
4-46 If this Act does not receive the vote necessary for immediate
4-47 effect, this Act takes effect September 1, 2013.

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