

SENATE AMENDMENTS

2nd Printing

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 to be disqualifying by
10 board rule [~~, 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 the renewal of a license,
3 registration, commission, letter of approval, permit, endorsement,
4 or certification, [~~two complete sets of~~] fingerprints in the
5 manner [~~on forms~~] prescribed by the board accompanied by the fee set
6 by the 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) An employee or agent of the
10 department or board, as applicable, who enters the place of
11 business of a person regulated under this chapter for the purpose of
12 conducting an inspection or audit must:

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

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

18 (b) This section does not prohibit the department or board
19 from conducting an undercover investigation or covert audit in
20 order to determine compliance with this chapter or a rule adopted
21 under this chapter.

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

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

27 (1) that the applicant, license holder, manager or

1 majority owner of a license holder, registrant, endorsement holder,
2 or commissioned security officer has:

3 (A) violated this chapter or a rule adopted under
4 this chapter;

5 (B) become ineligible for licensure,
6 registration, or endorsement under Section 1702.113, or a
7 commission under Section 1702.163, if applicable, other than an
8 action for which the department has taken summary action under
9 Section 1702.364;

10 (C) engaged in fraud, deceit, or
11 misrepresentation;

12 (D) made a material misstatement in an
13 application for or renewal of a license, registration, endorsement,
14 or commission;

15 (E) failed to pay in full an administrative
16 penalty assessed under Subchapter Q, for which the board has issued
17 a final order; ~~or~~

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

20 (i) was not employed with a company
21 licensed under this chapter at the time the service was performed;
22 or

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

27 (G) failed to qualify a new manager within the

1 time required by board rule following the termination of a manager;
2 or

3 (2) that the license holder of a registrant or
4 commissioned security officer has submitted to the department
5 sufficient evidence that the registrant or commissioned security
6 officer:

7 (A) engaged in fraud or deceit while employed by
8 the license holder; or

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

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

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

18 (a) On receiving written notice from a law enforcement
19 agency that a person has been charged with or convicted of an
20 offense that would make the person ineligible for a license,
21 certificate of registration, endorsement, or security officer
22 commission under Section 1702.113 or 1702.163, or a rule adopted
23 under Section 1702.004(b), the department shall:

24 (1) summarily deny the person's application for a
25 license, registration, endorsement, or security officer
26 commission;

27 (2) in the event of pending charges, summarily suspend

1 the person's license, certificate of registration, endorsement, or
2 security officer commission; or

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

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

8 Sec. 1702.3841. INSUFFICIENT INSURANCE COVERAGE; OFFENSE.

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

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

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

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

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

24 (2) an applicant for or holder of a license to carry a
25 concealed handgun under the authority of Subchapter H, Chapter 411,
26 Government Code, or an applicant for or holder of a commission as a
27 security officer under Chapter 1702, Occupations Code, is capable

1 of exercising sound judgment with respect to the proper use and
2 storage of a handgun.

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

5 SECTION 13. (a) The changes in law made by this Act to
6 Chapter 1702, Occupations Code, apply only to an application for an
7 original or renewal license, registration, or endorsement
8 submitted to the Texas Private Security Board on or after January 1,
9 2014. An application submitted before January 1, 2014, is governed
10 by the law in effect on the date the application was submitted, and
11 the former law is continued in effect for that purpose.

12 (b) The Texas Private Security Board shall adopt rules to
13 implement the changes in law made by this Act not later than January
14 1, 2014.

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

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 22 2013

BY: 


Secretary of the Senate

1 Amend H.B. No. 3433 (senate committee report) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Section 1702.105, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.105. ALARM SYSTEMS COMPANY. (a) A person acts
7 as an alarm systems company for the purposes of this chapter if
8 the person sells, installs, services, monitors, or responds to
9 an alarm system or detection device.

10 (b) An alarm systems company may sell, install, maintain,
11 or service, or offer to sell, install, maintain, or service, an
12 electronic access control device or a mechanical security device
13 that is capable of activation through a wireless signal. An
14 alarm systems company may not rekey an electronic access control
15 device or mechanical security device that can be activated by a
16 key. This subsection does not apply to a mechanical security
17 device or electronic access control device installed in a motor
18 vehicle.

19 SECTION _____. Section 1702.223(b), Occupations Code, is
20 amended to read as follows:

21 (b) An alarm systems installer may sell, install,
22 maintain, [~~or~~] repair, or service an electronic access control
23 device or a mechanical security device that is capable of
24 activation through a wireless signal. An alarm systems installer
25 may not rekey an electronic access control device or mechanical
26 security device that can be activated by a key. This subsection
27 does not apply to a mechanical security device or electronic
28 access control device installed in a motor vehicle.

29 SECTION _____. Section 1702.324(b), Occupations Code, is

1 amended to read as follows:

2 (b) This chapter does not apply to:

3 (1) a manufacturer or a manufacturer's authorized
4 distributor while selling equipment intended for resale;

5 (2) a person engaged exclusively in the business of
6 obtaining and providing information to:

7 (A) determine creditworthiness;

8 (B) collect debts; or

9 (C) ascertain the reliability of information
10 provided by an applicant for property, life, or disability
11 insurance or an indemnity or surety bond;

12 (3) a person engaged exclusively in the business of
13 repossessing property that is secured by a mortgage or other
14 security interest;

15 (4) a person who is engaged in the business of
16 psychological testing or other testing and interviewing
17 services, including services to determine attitudes, honesty,
18 intelligence, personality, and skills, for preemployment
19 purposes;

20 (5) a person who:

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

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

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

29 (6) a licensed engineer practicing engineering or
30 directly supervising engineering practice under Chapter 1001,
31 including forensic analysis, burglar alarm system engineering,

1 and necessary data collection;

2 (7) an employee of a cattle association who inspects
3 livestock brands under the authority granted to the cattle
4 association by the Grain Inspection, Packers and Stockyards
5 Administration of the United States Department of Agriculture;

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

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

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

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

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

17 (A) installs, changes, or repairs a mechanical
18 security device;

19 (B) repairs an electronic security device; or

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

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

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

28 (15) a retailer, wholesaler, or other person who
29 sells mechanical security devices, including locks and
30 deadbolts, but who does not:

31 (A) service mechanical security devices for the

1 public outside of the person's premises; or

2 (B) claim to act as a locksmith;

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

6 (A) Texas Department of Insurance;

7 (B) Office of Thrift Supervision;

8 (C) Securities and Exchange Commission;

9 (D) Federal Deposit Insurance Corporation; or

10 (E) Financial Industry Regulatory Authority;

11 (17) a social worker who holds a license issued under
12 Chapter 505 who is engaged in the practice of social work;

13 (18) persons licensed under Chapter 1101, Occupations
14 Code, an association thereof, their authorized agents, or a
15 multiple listing service, engaged in the business of selling,
16 maintaining, repairing, programming, or placing lockboxes used
17 for accessing real property; or

18 (19) an automobile club that holds a certificate of
19 authority under Chapter 722, Transportation Code, its
20 subcontractor, or a business that provides similar services,
21 that unlocks a vehicle at the request of the owner or operator
22 of the vehicle and that does not otherwise perform a locksmith
23 service.

ADOPTED

MAY 22 2013

FLOOR AMENDMENT NO. 2

Letty Spaul
Secretary of the Senate

BY: *Long Estes*

1 Amend H.B. No. 3433 (senate committee report) as follows:

2 (1) Add the following appropriately numbered SECTION to the
3 bill and renumber subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Section 1702.288, Occupations Code, is
5 amended by adding Subsection (f) to read as follows:

6 (f) A license holder acting as an alarm systems company does
7 not have to provide the notice required under Subsection (d) if the
8 contact information, including the address and the telephone
9 numbers for the alarm systems company, has not changed.

10 (2) In SECTION 10 of the bill, in added Section 1702.3841,
11 Occupations Code (page 4, line 16), between "notice" and "and",
12 insert "from the department".

ADOPTED

MAY 22 2013

Lotay Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: Carra

1 Amend H.B. No. 3433 (senate committee report) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering the SECTIONS of the bill accordingly:

4 SECTION __. Subchapter B, Chapter 1302, Occupations Code,
5 is amended by adding Section 1302.064 to read as follows:

6 Sec. 1302.064. TECHNOLOGY INTEGRATION. This chapter does
7 not apply to a person licensed under Chapter 1702 of this code
8 or Chapter 6002, Insurance Code, who sells, designs, or offers
9 to sell or design a product or technology, including a burglar
10 alarm or fire alarm, that is integrated with an air conditioning
11 or refrigeration system if the sale, design, or offer does not
12 include the installation of any part of an air conditioning or
13 refrigeration system by that person.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 23, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3433 by Fletcher (Relating to the regulation of certain private security companies and occupations; creating an offense.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code and Health and Safety Code as they relate to the regulation of certain private security companies and occupations. The bill would authorize the Department of Public Safety to conduct legal compliance inspections of private security businesses regulated under Chapter 1702, Occupations Code, require an applicant or license holder to maintain insurance to cover all private security business activities of the applicant or license holder, and create an offense if a person lacks sufficient insurance to cover these business activities. The Department of State Health Services Medical Advisory Board is given the responsibility for determining whether an applicant for or holder of a commission as a security officer under Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a hand gun.

It is assumed that implementing the provisions of the bill can be absorbed within the existing resources of the affected agencies. The bill takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If the bill does not receive the vote necessary for immediate effect, it takes effect September 1, 2013.

Local Government Impact

The bill creates a Class A misdemeanor. Costs associated with enforcement, prosecution, and confinement could likely be absorbed within existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of

LBB Staff: UP, SD, AI, KNi, SZ, ESi, KKR, GDz

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 17, 2013

TO: Honorable Craig Estes, Chair, Senate Committee on Agriculture, Rural Affairs & Homeland Security

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3433 by Fletcher (Relating to the regulation of certain private security companies and occupations; creating an offense.), **As Engrossed**

<p>No significant fiscal implication to the State is anticipated.</p>
--

The bill would amend the Occupations Code and Health and Safety Code as they relate to the regulation of certain private security companies and occupations. The bill would authorize the Department of Public Safety to conduct legal compliance inspections of private security businesses regulated under Chapter 1702, Occupations Code, require an applicant or license holder to maintain insurance to cover all private security business activities of the applicant or license holder, and create an offense if a person lacks sufficient insurance to cover these business activities. The Department of State Health Services Medical Advisory Board is given the responsibility for determining whether an applicant for or holder of a commission as a security officer under Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a hand gun.

The Department of State Health Services and indicates it could absorb the costs associated with the bill within its current resources. The bill would take effect immediately if it receives a two-thirds vote in each house. Otherwise, the bill would take effect September 1, 2013.

Local Government Impact

The bill creates a Class A misdemeanor. Costs associated with enforcement, prosecution, and confinement could likely be absorbed within existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of

LBB Staff: UP, SZ, ESi, AI, KNi, KKR, GDz

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 24, 2013

TO: Honorable Joseph Pickett, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3433 by Fletcher (Relating to the regulation of certain private security companies and occupations; creating an offense.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code and Health and Safety Code as they relate to the regulation of certain private security companies and occupations. The bill would authorize the Department of Public Safety to conduct legal compliance inspections of private security businesses regulated under Chapter 1702, Occupations Code, require an applicant or license holder to maintain insurance to cover all private security business activities of the applicant or license holder, and create an offense if a person lacks sufficient insurance to cover these business activities. The Department of State Health Services Medical Advisory Board is given the responsibility for determining whether an applicant for or holder of a commission as a security officer under Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a hand gun.

The Department of State Health Services and indicates it could absorb the costs associated with the bill within its current resources. The bill would take effect immediately if it receives a two-thirds vote in each house. Otherwise, the bill would take effect September 1, 2013.

Local Government Impact

The bill creates a Class A misdemeanor. Costs associated with enforcement, prosecution, and confinement could likely be absorbed within existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of
of

LBB Staff: UP, ESi, AI, KNi, KKR, GDz

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 9, 2013

TO: Honorable Joseph Pickett, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3433 by Fletcher (Relating to the regulation of certain private security companies and occupations; creating an offense.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
--

The bill would amend the Occupations Code and Health and Safety Code as they relate to the regulation of certain private security companies and occupations. The bill would authorize the Department of Public Safety to conduct legal compliance inspections of private security businesses regulated under Chapter 1702, Occupations Code, require an applicant or license holder to maintain insurance to cover all private security business activities of the applicant or license holder, and create an offense if a person lacks sufficient insurance to cover these business activities. The Department of State Health Services Medical Advisory Board is given the responsibility for determining whether an applicant for or holder of a commission as a security officer under Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a hand gun.

The Department of State Health Services and indicates it could absorb the costs associated with the bill within its current resources. The bill would take effect immediately if it receives a two-thirds vote in each house. Otherwise, the bill would take effect September 1, 2013.

Local Government Impact

The bill creates a Class A misdemeanor. Costs associated with enforcement, prosecution, and confinement could likely be absorbed within existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of
of

LBB Staff: UP, ESi, AI, KNi, KKR, GDz