

House Bill 3433
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

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~~].

No equivalent provision.

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

Sec. 1302.064. TECHNOLOGY INTEGRATION. This chapter does not apply to a person licensed under Chapter 1702 of this code or Chapter 6002, Insurance Code, who sells, designs, or offers to sell or design a product or technology, including a burglar alarm or fire alarm, that is integrated with an air conditioning or refrigeration system if the sale, design, or offer does not include the installation of any part of an air conditioning or refrigeration system by that person. [FA3]

SECTION 1. Same as House version.

SECTION __. Section 1702.105, Occupations Code, is amended to read as follows:

Sec. 1702.105. ALARM SYSTEMS COMPANY. (a) A person acts as an alarm systems company for the purposes of this chapter if the person sells, installs, services, monitors, or

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responds to an alarm system or detection device.

(b) An alarm systems company may sell, install, maintain, or service, or offer to sell, install, maintain, or service, an electronic access control device or a mechanical security device that is capable of activation through a wireless signal. An alarm systems company may not rekey an electronic access control device or mechanical security device that can be activated by a key. This subsection does not apply to a mechanical security device or electronic access control device installed in a motor vehicle. [FA1]

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;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification for which the applicant requests qualification;
- (5) if the applicant is an entity other than an individual, the full name and residence address of each partner, officer who oversees the security-related aspects of the business, and director of the applicant, and of the applicant's manager;
- (6) if the applicant is an individual, ~~the [two-classifiable sets of]~~ fingerprints of the applicant or, if the applicant is an entity other than an individual, of each officer who oversees the security-related aspects of the business and of each partner or

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shareholder who owns at least a 25 percent interest in the applicant, provided in the manner prescribed by the board;

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

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

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

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

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

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

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

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

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

(3) have been dishonorably discharged from the United States armed services, discharged from the United States armed

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services under other conditions determined by the board to be prohibitive, or dismissed from the United States armed services if a commissioned officer in the United States armed services; or

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

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

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

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

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

No equivalent provision.

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SECTION 4. Same as House version.

SECTION 5. Same as House version.

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

(b) An alarm systems installer may sell, install, maintain, ~~[or]~~ repair, or service an electronic access control device or a

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mechanical security device that is capable of activation through a wireless signal. An alarm systems installer may not rekey an electronic access control device or mechanical security device that can be activated by a key. This subsection does not apply to a mechanical security device or electronic access control device installed in a motor vehicle. [FA1]

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

(a) The board shall conduct a criminal history check, including a check of any criminal history record information maintained by the Federal Bureau of Investigation, in the manner provided by Subchapter F, Chapter 411, Government Code, on each applicant for a license, registration, security officer commission, letter of approval, permit, endorsement, or certification. As part of its criminal history check, the board may request that the applicant provide certified copies of relevant court documents or other records. The failure to provide the requested records within a reasonable time as determined by the board may result in the application being considered incomplete. An applicant is not eligible for a license, registration, commission, letter of approval, permit, endorsement, or certification if the check reveals that the applicant has committed an act that constitutes grounds for the denial of the license, registration, commission, letter of approval, permit, endorsement, or certification. Except as provided by Subsection (d), each applicant shall submit at the time of [include in the] application, including an application for the renewal of a license, registration, commission, letter of approval, permit, endorsement, or certification, [two complete sets of] fingerprints in the manner [on forms]

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prescribed by the board accompanied by the fee set by the board.

No equivalent provision.

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

Sec. 1702.289. INSPECTIONS. (a) An employee or agent of the department or board, as applicable, who enters the place of business of a person regulated under this chapter for the purpose of conducting an inspection or audit must:

(1) notify the manager or owner of the business of the presence of the person conducting the inspection or audit; and
(2) present the manager or owner of the business with credentials that identify the person conducting the inspection or audit as an employee or agent of the department or board.

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

No equivalent provision.

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

(f) A license holder acting as an alarm systems company does not have to provide the notice required under Subsection (d) if the contact information, including the address and the telephone numbers for the alarm systems company, has not changed. [FA2(1)]

SECTION 7. Same as House version.

SECTION __. Section 1702.324(b), Occupations Code, is amended to read as follows:

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- (b) This chapter does not apply to:
 - (1) a manufacturer or a manufacturer's authorized distributor while selling equipment intended for resale;
 - (2) a person engaged exclusively in the business of obtaining and providing information to:
 - (A) determine creditworthiness;
 - (B) collect debts; or
 - (C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;
 - (3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;
 - (4) a person who is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes;
 - (5) a person who:
 - (A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;
 - (B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and
 - (C) does not perform any other act that requires a license under this chapter;
 - (6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;
 - (7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration

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of the United States Department of Agriculture;

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

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

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

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

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

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

(B) repairs an electronic security device; or

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

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

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

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

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

(B) claim to act as a locksmith;

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

(A) Texas Department of Insurance;

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- (B) Office of Thrift Supervision;
 - (C) Securities and Exchange Commission;
 - (D) Federal Deposit Insurance Corporation; or
 - (E) Financial Industry Regulatory Authority;
 - (17) a social worker who holds a license issued under Chapter 505 who is engaged in the practice of social work;
 - (18) persons licensed under Chapter 1101, Occupations Code, an association thereof, their authorized agents, or a multiple listing service, engaged in the business of selling, maintaining, repairing, programming, or placing lockboxes used for accessing real property; or
 - (19) an automobile club that holds a certificate of authority under Chapter 722, Transportation Code, its subcontractor, or a business that provides similar services, that unlocks a vehicle at the request of the owner or operator of the vehicle and that does not otherwise perform a locksmith service.
- [FA1]

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

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

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

- (A) violated this chapter or a rule adopted under this chapter;
- (B) become ineligible for licensure, registration, or endorsement under Section 1702.113, or a commission under Section 1702.163, if applicable, other than an action for which the department has taken summary action under Section

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1702.364;

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) summarily deny the person's application for a license, registration, endorsement, or security officer commission;
- (2) in the event of pending charges, summarily suspend the person's license, certificate of registration, endorsement, or security officer commission; or
- (3) in the event of a conviction, summarily revoke the person's license, certificate of registration, endorsement, or security officer commission.

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

Sec. 1702.3841. INSUFFICIENT INSURANCE COVERAGE; OFFENSE. (a) A person commits an offense if the person is subject to Section 1702.124 and knowingly fails to provide and maintain a certificate of insurance or other documentary evidence of insurance sufficient to cover all of the business activities of the person related to private security. A person is presumed to have acted knowingly for purposes of this subsection if the person received reasonable notice and an opportunity to provide or maintain the documentation required by Section 1702.124 and failed to do so.

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

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SECTION 9. Same as House version.

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

Sec. 1702.3841. INSUFFICIENT INSURANCE COVERAGE; OFFENSE. (a) A person commits an offense if the person is subject to Section 1702.124 and knowingly fails to provide and maintain a certificate of insurance or other documentary evidence of insurance sufficient to cover all of the business activities of the person related to private security. A person is presumed to have acted knowingly for purposes of this subsection if the person received reasonable notice from the department and an opportunity to provide or maintain the documentation required by Section 1702.124 and failed to do so. [FA2(2)]

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

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

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

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

(2) an applicant for or holder of a license to carry a concealed handgun under the authority of Subchapter H, Chapter 411, Government Code, or 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 handgun.

SECTION 11. Same as House version.

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

SECTION 12. Same as House version.

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

SECTION 13. Same as House version.

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

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SECTION 14. This Act 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 this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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SECTION 14. Same as House version.

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