

BILL ANALYSIS

C.S.H.B. 3115
By: Simmons
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the Private Security Act needs to be revised and updated to ensure that private security regulations keep pace with technological advancements to better meet consumer demand. C.S.H.B. 3115 seeks to provide for this revision and update.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3115 amends the Occupations Code to prohibit the Texas Private Security Board from adopting or enforcing any rule or from taking any action that distinguishes between persons or that favors one person over another on the basis of the number of persons licensed, registered, or commissioned under the Private Security Act. The bill gives the board the option of approving any professional training program reasonably related to a regulated alarm systems installer, security salesperson, or alarm systems monitor service as an alternative to approving certain nationally recognized training programs for purposes of the requirement that such an individual hold a certification by a board-approved training program for renewal of an endorsement. The bill changes the counties within 100 miles of which a training program for such an individual must offer at least two certification programs each year in order to be approved by the board from counties in Texas that have a population of more than 500,000 to counties in Texas that have a population of more than one million.

C.S.H.B. 3115 replaces the requirement that the board implement rules to require that to renew an endorsement an individual who is employed as an alarm systems installer or a security salesperson and who has already once renewed the endorsement must obtain continuing education credit related to the line of work for which the individual is licensed with an authorization for the board to implement those rules and includes an individual who is employed as an alarm systems monitor in the scope of that authorization. The bill replaces the requirement for the chief administrator responsible for the administration of the Private Security Act to approve classes offered by nationally recognized organizations if the board requires the continuing education for those individuals with an authorization for the chief administrator to do so and authorizes the chief administrator in the alternative under those circumstances to approve any professional training class reasonably related to a regulated alarm systems installer, security salesperson, or alarm systems monitor service.

C.S.H.B. 3115 revises the notice requirements under rules required to be adopted by the board relating to notice of contract purchase and subcontracting and of company contact information to a recipient of alarm system services by certain persons acting as an alarm systems company under the Private Security Act. The bill requires an employee or agent of the board or of the Department of Public Safety (DPS), as applicable, to explain the basis for the inspection, including any applicable complaint, as a condition for entering the place of business of a person regulated under the Private Security Act for the purpose of conducting an inspection. The bill defines "inspection" as an examination conducted in response to a complaint or specific event suggestive of a potential violation of the act or a rule adopted under the act.

C.S.H.B. 3115 requires an employee or agent of the board or of DPS, as applicable, who enters the place of business of a person regulated under the Private Security Act for the purpose of conducting a random or routine review and evaluation of a license holder's records, equipment, and facilities for the purpose of ensuring compliance with the act or a rule adopted under the act to notify the manager or owner of the business of the presence of the person conducting the review and evaluation and present the manager or owner of the business with credentials that identify the person conducting the review and evaluation as an employee or agent of the board or DPS. That requirement expressly does not prohibit DPS or the board from conducting an undercover investigation or covert observation to determine compliance with the act or a rule adopted under the act.

C.S.H.B. 3115 removes the authority of a person to whom the board issues a license to contract to monitor an alarm under an existing contract after the date of suspension of the person's license and extends from 30 days after the date of suspension to 45 days after that date the timeframe within which a license holder may continue to monitor an alarm under an existing contract.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3115 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 1702.061, Occupations Code, is amended.	SECTION 1. Same as introduced version.
No equivalent provision.	SECTION 2. The heading to Section 1702.239, Occupations Code, is amended to read as follows: Sec. 1702.239. TRAINING REQUIREMENTS FOR ALARM SYSTEMS INSTALLER, <u>ALARM SYSTEMS MONITOR</u> , AND SECURITY SALESPERSON; EXAMINATION.
SECTION 2. Sections 1702.239(a) and (d), Occupations Code, are amended to read as follows: (a) The board may require that an individual employed as an alarm systems	SECTION 3. Sections 1702.239(a) and (d), Occupations Code, are amended to read as follows: (a) The board may require that an individual employed as an alarm systems

installer or security salesperson hold a certification by a board-approved training program to renew an endorsement. The board may approve only nationally recognized training programs that consist of at least 16 hours of classroom study in the areas of work allowed by the endorsement.

To be approved, a training program must offer at least two certification programs each year, sufficient to complete the requirements of this subsection, within 100 miles of each county in the state that has a population of more than one million [500,000].

(d) If the board requires certification or examination under this section, the board may not [~~shall~~] implement rules to require that to renew an endorsement, an individual who is employed as an alarm systems installer or a security salesperson and who has already once renewed the endorsement must obtain continuing education credits related to the line of work for which the individual is licensed.

~~[If the board requires the continuing education, the chief administrator must approve classes offered by nationally recognized organizations, and participants in the classes must qualify according to board rules.]~~

SECTION 3. Sections 1702.288(d) and (e), Occupations Code, are amended to read as follows:

(d) The rules shall require that, not later than the seventh day after the date of selling an alarm monitoring contract to [~~entering into a contract for services regulated by the board with~~] another alarm systems company [~~or alarm systems monitor~~], an alarm systems company shall[;]

[~~(1)~~] notify the recipient of [those] services under the contract of the name, address, and telephone number and individual to contact at the company that purchased the contract[;]

[~~(2) notify the recipient of services at the time the contract is negotiated that another licensed company may provide any of the services requested by subcontracting or~~

installer or security salesperson hold a certification by a board-approved training program to renew an endorsement. The board may approve [~~only~~] nationally recognized training programs that consist of at least 16 hours of classroom study in the areas of work allowed by the endorsement or any professional training program reasonably related to a service regulated under this section. To be approved, a training program must offer at least two certification programs each year, sufficient to complete the requirements of this subsection, within 100 miles of each county in the state that has a population of more than one million [500,000].

(d) If the board requires certification or examination under this section, the board may [~~shall~~] implement rules to require that to renew an endorsement, an individual who is employed as an alarm systems installer or a security salesperson and who has already once renewed the endorsement, or an individual who is employed as an alarm systems monitor, must obtain continuing education credits related to the line of work for which the individual is licensed. If the board requires the continuing education, the chief administrator may [~~must~~] approve classes offered by nationally recognized organizations or may approve any professional training class reasonably related to a service regulated under this section. Participants [~~and participants~~] in the classes must qualify according to board rules.

SECTION 4. Substantially the same as introduced version.

~~outsourcing those services; and
[3] if any of the services are subcontracted or outsourced to a licensed third party, notify the recipient of services, by mail, of the name, address, phone number, and license number of the company providing those services].~~

(e) The rules shall require that notice provided to a recipient of services under Subsection (d) shall[~~:~~

~~[(1)] be mailed to the recipient in a written form that emphasizes the required information[; and~~

~~[(2) include stickers or other materials to be affixed to an alarm system indicating the alarm systems company's or alarm systems monitor's new telephone number].~~

SECTION 4. Section 1702.289, Occupations Code, is amended 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; and

(3) have reasonable suspicion of a violation of this chapter or a rule adopted under this chapter.

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

SECTION 5. Subchapter L, Chapter 1702, Occupations Code, is amended by adding Section 1702.290 to read as follows:

Sec. 1702.290. AUDITS. (a) An employee or agent of the department or board, as

SECTION 5. Section 1702.289, Occupations Code, is amended 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; and

(3) explain the basis for the inspection, including any applicable complaint.

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

(c) In this section, "inspection" means an examination conducted in response to a complaint or specific event suggestive of a potential violation of this chapter or a rule adopted under this chapter.

SECTION 6. Subchapter L, Chapter 1702, Occupations Code, is amended by adding Section 1702.290 to read as follows:

Sec. 1702.290. AUDITS. (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 audit must:

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

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

(b) 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 audit may not conduct an audit without the express consent of the manager or owner of the business.

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

SECTION 6. Section 1702.308(a), Occupations Code, is amended to read as follows:

(a) This section does not apply to a noncommissioned security officer or an employee of an alarm systems company.

SECTION 7. Section 1702.370, Occupations Code, is amended.

SECTION 8. Section 1702.388, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), an [An] offense under this section is a Class A misdemeanor, except that the offense is a felony of the third degree if the person has previously been convicted under this chapter of failing to hold a license, registration, endorsement, certificate, or commission that the person is required to hold under this chapter.

(c) An offense under this section for a violation of a rule adopted under this

applicable, who enters the place of business of a person regulated under this chapter for the purpose of conducting an audit must:

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

(2) present the manager or owner of the business with credentials that identify the person conducting the 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 observation to determine compliance with this chapter or a rule adopted under this chapter.

(c) In this section, "audit" means a random or routine review and evaluation of a license holder's records, equipment, and facilities for the purpose of ensuring compliance with this chapter or a rule adopted under this chapter.

No equivalent provision.

SECTION 7. Same as introduced version.

No equivalent provision.

chapter is a Class C misdemeanor.

SECTION 9. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 10. This Act takes effect September 1, 2017.

No equivalent provision.

SECTION 8. Same as introduced version.