

1 SB85
2 146394-1
3 By Senator Whatley
4 RFD: Governmental Affairs
5 First Read: 05-FEB-13

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8 SYNOPSIS: Under existing law, the Electronic Security
9 Board of Licensure licenses and regulates alarm
10 system installers and locksmiths.

11 This bill would provide that the definition
12 of locksmith includes the installation or service
13 of locks for motor vehicles, would specify that the
14 powers of the board include making inspections
15 relating to unlicensed operations, would authorize
16 licenses to be staggered and issued for a two-year
17 period and would delete the specified date of
18 December 31 of each year for licenses to expire,
19 would specify that businesses selling locks only
20 over the counter or by mail order are exempt under
21 the law and would clarify the application of
22 exemptions, would specify that each offense would
23 be punished as provided by law, and would further
24 provide for civil enforcement of the law by
25 injunctive relief and civil fines.

26 Under existing law, the licensure law does
27 not apply in counties having a population of 30,000

1 inhabitants or less according to the most recent
2 decennial census.

3 This bill would provide that the licensure
4 law would not apply to an alarm installer in a
5 county having a population of 30,000 or less if the
6 person or business entity had a business license
7 during the five-year period immediately preceding
8 the enactment of this bill.

9
10 A BILL

11 TO BE ENTITLED

12 AN ACT

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14 To amend Sections 34-1A-1, 34-1A-3, 34-1A-5, as
15 amended by Act 2012-177, 34-1A-6, 34-1A-7, and 34-1A-10 of the
16 Code of Alabama 1975, relating to the Electronic Security
17 Board of Licensure and providing for the licensure and
18 regulation of alarm system installers and locksmiths, to
19 further provide for the definition of locksmith, to provide
20 that the powers of the board include making inspections
21 relating to unlicensed operations, to provide for the issuance
22 of licenses for a two-year period and for the renewals to be
23 staggered, to further provide for exemptions and the
24 application of exemptions, to specify that each offense would
25 be punishable as provided by law, would further provide for
26 civil enforcement, including civil fines, for violations of
27 the licensure law; and would provide that in counties having a

1 population of 30,000 or less, certain persons would be exempt
2 from the operation of the law under certain conditions.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 34-1A-1, 34-1A-3, 34-1A-5, as
5 amended by Act 2012-177, 34-1A-6, 34-1A-7, and 34-1A-10 of the
6 Code of Alabama 1975, are amended to read as follows:

7 "§34-1A-1.

8 "For the purpose of this chapter, the following
9 terms shall have the following meanings unless the context
10 clearly indicates otherwise:

11 "(1) ALARM SYSTEM. Burglar alarms, ~~television~~
12 security cameras, or other electrical or electronic device
13 used to prevent or detect burglary, theft, shoplifting,
14 pilferage, and other similar losses. The term does not include
15 any fire detection, fire alarm, or fire communication system.

16 "(2) ALARM SYSTEM INSTALLER. A person or business
17 entity that offers to undertake, represents itself as being
18 able to undertake, or does undertake the installation,
19 service, or monitoring, of alarm systems for the public for
20 any type of compensation.

21 "(3) BURGLAR ALARM. An assembly of equipment and
22 devices, or a single device such as a solid-state unit which
23 plugs directly into an AC line, designed to detect an
24 unauthorized intrusion or an attempted robbery at a protected
25 premises or signal public police or private guards to respond,
26 or both.

1 "(4) CENTRAL STATION. A location where alarm signals
2 are received as a part of an alarm system and then relayed via
3 operator to law enforcement officials.

4 "(5) CLOSED CIRCUIT TELEVISION SYSTEM (CCTV). A
5 combination of electronic equipment and devices designed and
6 arranged for the viewing, monitoring, or recording of video
7 signals transmitted from transmitters, such as cameras, to
8 receivers, such as monitors, digital video recorders, and
9 network video recorders (NVR) through a closed cable or other
10 video signal transmission method.

11 "(6) ELECTRONIC ACCESS CONTROL SYSTEM. A system that
12 is powered by the building's primary power source and is used
13 as a process to grant or deny an individual access to a
14 specific area or object based upon his or her possession of an
15 item, a code, or physical characteristic.

16 "(7) INSTALLATION. The initial placement of
17 equipment or the extension, modification, or alteration of
18 equipment after initial placement.

19 "(8) LOCKSMITH. A person or business entity that
20 offers to undertake, represents itself as being able to
21 undertake, or does undertake the installation or service of
22 locks for motor vehicles or for residential or commercial use.

23 "(9) SERVICE. Necessary repair in order to return
24 the system to operational condition.

25 "§34-1A-3.

26 "The board shall have all of the following powers:

1 "(1) License and regulate persons and business
2 entities engaged in business as an alarm system installer or
3 as a locksmith.

4 "(2) Establish the qualifications for licensure to
5 ensure competency and integrity to engage in these businesses
6 and allow graduates of technical school or community college
7 programs in related fields to qualify. Qualifications for
8 licensure shall include the requirement that the applicant is
9 a United States citizen or legally present in this state.

10 "(3) Examine, or cause to be examined, the
11 qualifications of each applicant for licensure including the
12 preparation, administration, and grading of examinations, and
13 when necessary, requiring the applicant to supply a board
14 approved background investigation.

15 "(4) License qualified applicants regulated by the
16 board.

17 "(5) Revoke, suspend, or fail to renew a license for
18 just cause as enumerated in the regulations of the board.

19 "(6) Levy and collect reasonable fees for licensure,
20 including, but not limited to, the application process and
21 testing of applicants, and renewal, suspension, and reissuance
22 of licenses, and costs of necessary hearings, that are
23 sufficient to cover all expenses for the administration and
24 operation of the board.

25 "(7) Promulgate rules and regulations in accordance
26 with the Administrative Procedure Act necessary to perform its
27 duties, to ensure continued competency, to prevent deceptive,

1 misleading, or criminal practices by its licensees, and to
2 effectively administer the regulatory system administered by
3 the board.

4 "(8) Register or by other means monitor employees of
5 a licensee to ensure such employees do not impair the ability
6 of the licensee to satisfy the requirements of this chapter.

7 "(9) Receive and investigate complaints concerning
8 the conduct of any person or business entity whose activities
9 are regulated by the board, conduct hearings in accordance
10 with procedures established by the board pursuant to the
11 Alabama Administrative Procedure Act, and take appropriate
12 disciplinary action if warranted.

13 "(10) Ensure that periodic inspections are conducted
14 relating to the operations of licensees to ensure competency
15 and lawful compliance.

16 "(11) Require the purchase of comprehensive
17 liability insurance related to business activities in a
18 minimum specified amount.

19 "(12) Require licensees and employees of licensees
20 have available a photo identification card at all times when
21 providing licensed services.

22 "(13) Promulgate canons of ethics under which the
23 regulated professional activities of persons and business
24 entities shall be conducted.

25 "(14) Employ or contract for necessary personnel,
26 including a director, and provide necessary offices, supplies,
27 and equipment to fulfill the requirements of this chapter.

1 "(15) Delegate its powers and duties by resolution
2 to a named designee.

3 "(16) Enter into contracts and expend funds of the
4 board to fulfill the requirements of this chapter.

5 "(17) Borrow money for the initial start-up
6 operation of the board until sufficient receipts are paid into
7 the special revenue trust fund specified in Section 34-1A-9.

8 "(18) Work with the office of the Attorney General
9 and other law enforcement agencies to prohibit any violation
10 of this chapter.

11 "(19) Establish volunteer procedures for those
12 persons or businesses that are exempt from this chapter.

13 "(20) Conduct inspections relating to the operations
14 of unlicensed persons, firms, or corporations to include the
15 solicitation, installation, servicing, monitoring of burglar
16 alarm systems of a customer, or the holding of privacy codes
17 for burglar alarm systems of a customer, or the selling,
18 installation, or servicing of access control systems or CCTV
19 to or for a customer to ensure lawful compliance with this
20 chapter.

21 "§34-1A-5.

22 "(a) The board shall issue licenses authorized by
23 this chapter to all qualified individuals in accordance with
24 rules or regulations established by the board.

25 "(b) ~~The annual~~ (1) Effective beginning January 1,
26 2014, the license fee for a two-year period as set by the
27 board shall not exceed ~~one hundred fifty dollars (\$150)~~ three

1 hundred dollars (\$300) for an individual and ~~seven hundred~~
2 ~~fifty dollars (\$750) one thousand five hundred dollars~~
3 (\$1,500) for a business entity.

4 "(2) Effective for the license year beginning
5 January 1, 2014, and thereafter, the board may provide for the
6 licenses to be renewed on a staggered basis as determine by
7 rule of the board and, in order to stagger the license
8 renewals, may issue the license for less than a two-year
9 period. The amount of the license fees provided in subdivision
10 (1) shall be prorated by the board on a monthly basis for the
11 number of months the board issues the licenses in order to
12 convert to any staggered system of renewals.

13 "(c) The license shall not be transferred or
14 assigned and is valid only with respect to the person to whom
15 it is issued.

16 "(d) (1) No license shall be granted if the applicant
17 has had any prior business license revoked for fraud,
18 misrepresentation, or any other act that would constitute a
19 violation of this chapter.

20 "(2)a. An applicant shall not be refused a license
21 solely because of a prior criminal conviction, unless the
22 criminal conviction directly relates to the occupation or
23 profession for which the license is sought. The board may
24 refuse a license if, based on all the information available,
25 including the applicant's record of prior convictions, the
26 board finds that the applicant is unfit or unsuited to engage
27 in the business.

1 "b. The board may consult with appropriate state or
2 federal law enforcement authorities to verify whether an
3 applicant has a criminal record prior to granting any license
4 and, as an aid to this duty, each applicant may be required to
5 provide his or her fingerprints and complete an affidavit of
6 his or her criminal record, if any, as a part of the
7 application. The board may periodically consult with state and
8 federal law enforcement officials to determine whether current
9 licensees have new criminal convictions.

10 "(e) Any license granted pursuant to this chapter
11 shall be issued for a two-year period, but may be staggered
12 for renewal as otherwise provided for. Any license shall
13 expire on a schedule established by rule of the board, unless
14 it is renewed pursuant to regulations established by the board
15 or unless it is suspended or revoked.

16 "(f) An affirmative vote of a majority of board
17 members shall be required before any action to suspend or
18 revoke a license, to impose a sanction on a licensee, or to
19 levy a monetary penalty. A board member shall disqualify
20 himself or herself and withdraw from any case in which he or
21 she cannot accord fair and impartial consideration.

22 "(g) A nonresident of this state may be licensed by
23 meeting one of the following requirements:

24 "(1) Conforming to the provisions of this chapter
25 and the regulations of the board.

26 "(2) Holding a valid license in another state with
27 which reciprocity has been established by the board.

1 "(h) A licensee shall display the license at its
2 normal place of business and in a manner easily readable by
3 the general public.

4 "(i) A notice shall be displayed prominently in the
5 place of business of each licensee regulated pursuant to this
6 chapter containing the name, mailing address, and telephone
7 number of the board, and a statement informing consumers that
8 complaints against licensees may be directed to the board.

9 "(j) The license number of a licensee shall be
10 displayed in all advertising.

11 "(k) The board shall prepare information of consumer
12 interest describing the regulatory functions and describing
13 the procedures of the board by which consumer complaints shall
14 be filed with and resolved by the board. The board shall make
15 the information available to the general public and
16 appropriate state agencies. The board shall provide upon
17 request a listing of all licensees. The board may collect a
18 fee for the cost of duplicating and mailing materials.

19 "(l) Each written contract for services in the state
20 of a licensee shall contain the name, mailing address, and
21 telephone number of the board and a statement informing
22 consumers that complaints against licensees may be directed to
23 the board.

24 "(m) Notice of the issuance, revocation,
25 reinstatement, or expiration of every license issued by the
26 board shall be furnished to the sheriff of the county and the
27 chief of police, as appropriate, and the inspection department

1 of the city where the principal place of business of a
2 licensee is located.

3 "(n) Information contained in alarm system records
4 held by the board concerning the location of an alarm system,
5 the name of the occupant residing at the alarm system
6 location, or the type of alarm system used shall be
7 confidential and disclosed only to the board or as otherwise
8 required by law."

9 "§34-1A-6.

10 "The licensing and regulatory provision of this
11 chapter shall not apply to any of the following persons,
12 entities, or activities:

13 "(1) A person or business entity which only sells
14 alarm systems at the premises of a customer, but does not
15 enter the premises of the customer or install, service,
16 monitor, or respond to the alarm system at the premises of the
17 customer.

18 "(2) The installation, servicing, monitoring, or
19 responding to an alarm device which is installed in a motor
20 vehicle, aircraft, or boat.

21 "(3) The installation of an alarm system on property
22 owned by or leased to the installer.

23 "(4) A person or business entity who owns, installs,
24 or monitors alarm systems, on his or her own property or, if
25 he or she does not charge for the system or its installation,
26 installs it for the protection of his or her personal property
27 located on the property of another, and does not install or

1 monitor the system as a normal business practice on the
2 property of another.

3 "(5) A person or business entity whose sale of an
4 alarm system or lock is exclusively over-the-counter or by
5 mail order.

6 "(6) A person or business entity in the business of
7 building construction that installs electrical wiring and
8 devices that may include in part the installation of an alarm
9 system if both of the following apply:

10 "a. The person or business entity is a party to a
11 contract that provides that the installation shall be
12 performed under the direct supervision of, inspected, and
13 certified by a person or business entity licensed to install
14 an alarm system and that the licensee assumes full
15 responsibility for the installation and service of the alarm
16 system.

17 "b. The person or business entity does not service,
18 monitor, or maintain the alarm system.

19 "(7) The response to an alarm system by a law
20 enforcement agency or by a law enforcement officer acting in
21 an official capacity.

22 "(8) A business that engages in the installation or
23 operation of telecommunications facilities or equipment which
24 are used for the transport of any signal, data, or information
25 outside the continuous premises on which any alarm system is
26 installed or maintained.

1 "(9) Any business entity, business owner, or person,
2 or the agent or employee of such business entity, business
3 owner, or person engaging in the routine visual inspection or
4 manufacturer's or installer's recommended testing of an alarm
5 system subject to this chapter owned by the business entity,
6 business owner, or person and installed on property under the
7 control of the business entity, business owner, or person.

8 "(10) Any business entity, or person, or those
9 engaged in property management, or agent or subcontractors or
10 employees thereof, who, in the normal course of business,
11 engage in the routine inspection, service, or replacement of
12 such alarm systems, fire alarm or fire/smoke detection
13 systems, fire communication systems, or security devices
14 subject to this chapter, on or in property owned or under the
15 control of such business entity, or person, or property
16 manager.

17 "(11) Consulting engineers who design, develop,
18 modify, or offer other services within the scope of their
19 profession regarding alarm systems.

20 "(12) A licensed general contractor and the
21 employees of the contractor whose activities are limited to
22 the projects that qualify for a license by the State Licensing
23 Board for General Contractors.

24 "(13) A licensed electrician, master electrician,
25 and electrical contractor who is licensed by the city, county,
26 or state and their employees whose activities are limited to

1 the projects of the licensed electrician, master electrician,
2 and electrical contractor.

3 "(14) A licensed homebuilder and the employees of
4 the homebuilder whose activities are limited to the projects
5 of the licensed homebuilder.

6 "(15) A new motor vehicle dealer, as defined in
7 Section 40-12-290(9) and licensed by the Department of
8 Revenue, and employees of the dealer who are replacing or
9 repairing locks or burglar alarm systems on motor vehicles in
10 the dealer's inventory or on customer-owned vehicles delivered
11 to the dealer for repair.

12 "§34-1A-7.

13 "(a) Effective January 1, 1998, it shall be unlawful
14 for any person or business entity to engage in a business
15 regulated by this chapter in this state without a current
16 valid license or in violation of this chapter and applicable
17 rules and regulations of the board.

18 "(b) Effective January 1, 1998, it shall be unlawful
19 for a person or business entity not licensed under this
20 chapter to advertise or hold out to the public that he or she
21 is a licensee of the board.

22 "(c) Any person or business entity who violates
23 this chapter or any order, rule, or regulation of the board
24 shall be guilty of a Class A misdemeanor, and for each offense
25 for which he or she is convicted shall be punished as provided
26 by law.

1 "(d) Effective January 1, 1998, it shall also
2 constitute a Class A misdemeanor to willfully or intentionally
3 do any of the following:

4 "(1) Obliterate the serial number on an alarm system
5 for the purpose of falsifying service reports.

6 "(2) Knowingly and deliberately improperly install
7 an alarm system, or knowingly and deliberately improperly
8 service such a system.

9 "(3) While holding a license, allow another person
10 or business entity to use the license or license number.

11 "(4) Use, or permit the use of, any license by a
12 person or business entity other than the one to whom the
13 license is issued.

14 "(5) Use any credential, method, means, or practice
15 to impersonate a representative of the board.

16 "(6) Make use of any designation provided by statute
17 or regulation to denote a standard of professional or
18 occupational competence without being duly licensed.

19 "(7) Make use of any title, words, letters, or
20 abbreviations which may reasonably be confused with a
21 designation provided by statute or regulation to denote a
22 standard of professional or occupational competence without
23 being duly licensed.

24 "(8) Provide material misrepresenting facts in an
25 application for licensure or in other communications with the
26 board.

1 "(9) Refuse to furnish the board information or
2 records required or requested pursuant to statute or
3 regulation.

4 "(e) The board may institute proceedings in equity
5 to enjoin any person or business entity from engaging in any
6 unlawful act enumerated in this chapter. Such proceedings
7 shall be brought in the name of this state by the board in the
8 circuit court of the city or county in which the unlawful act
9 occurred or in which the defendant resides.

10 "(f) In addition to any other disciplinary action
11 taken by the board, any person or business entity licensed by
12 the board who violates this chapter or rule or regulation
13 promulgated pursuant to this chapter shall be subject to a
14 monetary penalty. If the board determines that the person is
15 in fact guilty of the violation, the board shall determine the
16 amount of the monetary penalty for the violation, which shall
17 not exceed one thousand dollars (\$1,000) for each violation.
18 The board may file a civil action to collect the penalty.

19 "(g) The board is entitled to costs and reasonable
20 attorney fees in any civil action or administrative proceeding
21 in which the board obtains relief.

22 "(h) In addition to or in lieu of the criminal
23 penalties and administrative sanctions provided in this
24 chapter, the board may issue an order to any person, firm, or
25 corporation engaged in any activity, conduct, or practice
26 constituting a violation of this chapter to show cause why an
27 order should not be issued directing the person, firm, or

1 corporation to cease and desist from the activity, conduct,
2 practice, or the performance of any work being done then or
3 about to be commenced. If the person, firm, or corporation
4 files a written request for a hearing before the board within
5 14 days after receipt of the order, the board, not less than
6 30 days thereafter, shall hold a hearing on the matter. After
7 a hearing, or if no hearing is requested, the board may issue
8 a cease and desist order to the person, firm, or corporation.
9 If an order is issued, the order shall be issued in the name
10 of the State of Alabama under the official seal of the board.
11 If the person, firm, or corporation to whom the board directs
12 a cease and desist order does not cease or desist the
13 proscribed activity, conduct, practice, or performance of the
14 work immediately, the board may petition any court of
15 competent jurisdiction to issue a writ of injunction enjoining
16 the person, firm, or corporation from engaging in any
17 activity, conduct, practice, or performance of work as
18 prohibited by this chapter. Upon a showing by the board that
19 the person, firm, or corporation has engaged or is engaged in
20 any activity, conduct, practice, or performance of any work
21 prohibited by this chapter, the court shall grant injunctive
22 relief enjoining the person, firm, or corporation from
23 engaging in such unlawful activity, conduct, practice, or
24 performance of work. Upon the issuance of a permanent
25 injunction, the court may fine the offending party up to five
26 thousand dollars (\$5,000), plus costs and attorney fees, for
27 each offense. A judgment for a civil fine, attorney fees, and

1 costs may be rendered in the same judgment in which the
2 injunction is made absolute.

3 "(i) Any person violating this chapter who fails to
4 cease work after a hearing and notification from the board
5 shall not be eligible to apply for a license from the board
6 for a period not to exceed one year from the date of official
7 notification to cease work. In addition, the board may
8 withhold approval for up to six months of any application from
9 any person who prior to the application has been found in
10 violation of this chapter.

11 "§34-1A-10.

12 "This chapter shall not apply ~~in counties having~~
13 ~~populations of less than 30,000 inhabitants according to the~~
14 ~~most recent decennial census, unless the county commission of~~
15 ~~such a county, by the adoption of a resolution, irrevocably~~
16 ~~elects to be covered by this chapter~~ to a person or business
17 entity that is located in and only conducts business in a
18 county having a population of less than 30,000 inhabitants
19 according to the most recent federal decennial census that
20 would otherwise be required to be licensed under this chapter
21 if the person or business entity had a business license for
22 the installation, service, or monitoring of burglar alarm
23 systems for five or more continuous years prior to the
24 effective date of the act amending this section."

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

