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3 SENATE GOVERNMENTAL AFFAIRS COMMITTEE SUBSTITUTE FOR SB265
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8 SYNOPSIS: Under existing law, the Electronic Security
9 Board of Licensure is responsible for licensing and
10 regulating installers of alarm systems, installers
11 of electronic access control systems, traditional
12 locksmiths, and installers of monitoring stations.

13 This bill would further provide for
14 definitions, would change the name of an alarm
15 system installer to system installer, and would
16 further clarify the definition of a locksmith.

17 This bill would authorize the board and any
18 committee of the board to meet via video
19 conference.

20 This bill would provide further for the
21 powers of the board.

22 This bill would provide further for
23 exemptions.

24 This bill would provide for criminal
25 penalties for advertising alarm system services or
26 locksmith services to the public without possessing
27 an active license or, as a licensee, practicing

1 while on state or federal probation or parole
2 without first notifying the board or providing
3 unsolicited sales or installation, or both, of an
4 alarm system or locking system at the home or
5 property of a person who is age 60 or older or
6 lacking the mental capacity to authorize the
7 installation or service of an alarm system or
8 locking system.

9 Amendment 621 of the Constitution of Alabama
10 of 1901, now appearing as Section 111.05 of the
11 Official Recompilation of the Constitution of
12 Alabama of 1901, as amended, prohibits a general
13 law whose purpose or effect would be to require a
14 new or increased expenditure of local funds from
15 becoming effective with regard to a local
16 governmental entity without enactment by a 2/3 vote
17 unless: it comes within one of a number of
18 specified exceptions; it is approved by the
19 affected entity; or the Legislature appropriates
20 funds, or provides a local source of revenue, to
21 the entity for the purpose.

22 The purpose or effect of this bill would be
23 to require a new or increased expenditure of local
24 funds within the meaning of the amendment. However,
25 the bill does not require approval of a local
26 governmental entity or enactment by a 2/3 vote to

1 become effective because it comes within one of the
2 specified exceptions contained in the amendment.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 Relating to the Alabama Electronic Security Board of
9 Licensure; to amend Sections 34-1A-1, 34-1A-2, 34-1A-3,
10 34-1A-4, 34-1A-5, 34-1A-6, 34-1A-7, and 34-1A-8, Code of
11 Alabama 1975, to provide further for definitions; to change
12 the name of an alarm system installer to system installer; to
13 clarify the definition of locksmith; to authorize the board
14 and any committee of the board to meet via video conference;
15 to provide further for the powers of the board; to provide
16 further for exemptions; to provide criminal penalties for
17 advertising alarm system services or locksmith services to the
18 public without possessing an active license or, with a
19 license, practicing while on state or federal probation or
20 parole without first notifying the board or providing
21 unsolicited sales or installation at the home of a person who
22 is age 60 or older, or lacking the mental capacity to
23 authorize the installation or service; and in connection
24 therewith would have as its purpose or effect the requirement
25 of a new or increased expenditure of local funds within the
26 meaning of Amendment 621 of the Constitution of Alabama of
27 1901, now appearing as Section 111.05 of the Official

1 Recompilation of the Constitution of Alabama of 1901, as
2 amended

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 34-1A-1, 34-1A-2, 34-1A-3,
5 34-1A-4, 34-1A-5, 34-1A-6, 34-1A-7, and 34-1A-8 of the Code of
6 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) ADMINISTRATIVE EMPLOYEE. A person who engages
12 in clerical duties for a licensed company, whose work is
13 restricted to office duties, and who has access to sensitive
14 client information including, but not limited to, Social
15 Security numbers, customer privacy codes, customer passwords,
16 and similar information.

17 "~~(1)~~ (2) ALARM MONITORING COMPANY. Any person,
18 company, corporation, partnership, or business, or a
19 representative or agency thereof, authorized to provide alarm
20 monitoring services for alarm systems or other similar
21 electronic security systems whether the systems are maintained
22 on commercial business property, public property, or
23 individual residential property.

24 "~~(2)~~ (3) ALARM SYSTEM. Burglar alarms, security
25 cameras, or other electrical or electronic device used to
26 prevent or detect burglary, theft, shoplifting, pilferage, and

1 other similar losses. The term does not include any fire
2 detection, fire alarm, or fire communication system.

3 ~~"(3) ALARM SYSTEM INSTALLER. A person or business~~
4 ~~entity that offers to undertake, represents itself as being~~
5 ~~able to undertake, or does undertake the installation,~~
6 ~~service, or monitoring, of alarm systems for the public for~~
7 ~~any type of compensation.~~

8 "(4) ALARM VERIFICATION. A reasonable attempt by an
9 alarm monitoring company to contact the alarm site or alarm
10 user by telephone or other electronic means to determine
11 whether an alarm signal is valid prior to requesting law
12 enforcement to be dispatched to the location and, if the
13 initial attempted contact is not made, a second reasonable
14 attempt to make a contact utilizing a different telephone
15 number or electronic address or number.

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

22 "(6) CLOSED CIRCUIT TELEVISION SYSTEM (CCTV). A
23 combination of electronic equipment and devices designed and
24 arranged for the viewing, monitoring, or recording of video
25 signals transmitted from transmitters, such as cameras, to
26 receivers, such as monitors, digital video recorders, and

1 network video recorders (NVR) through a closed cable or other
2 video signal transmission method.

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

8 "(8) HVAC SYSTEM. Heating, ventilation, or air
9 conditioning devices or mechanisms to provide heating or
10 cooling to a building or other structure or the devices used
11 to control the temperature of the heating or cooling devices
12 in a building or other structure.

13 "~~(8)~~ (9) INSTALLATION. The initial placement of
14 equipment or the extension, modification, or alteration of
15 equipment after initial placement.

16 "~~(9)~~ (10) LOCKSMITH. A ~~person or business entity that~~
17 ~~offers to undertake, represents itself as being able to~~
18 ~~undertake, or does undertake the installation or service of~~
19 ~~locks for motor vehicles or for residential or commercial use.~~
20 ~~The term does not include a person whose financial~~
21 ~~compensation from services as a locksmith for the installation~~
22 ~~or service of locks for residential use does not exceed five~~
23 ~~hundred dollars (\$500) annually and who does not advertise for~~
24 ~~his or her services as a locksmith.~~

25 "a. A person or business entity in a commercial,
26 residential, or automotive setting that does any of the
27 following for compensation or other consideration:

1 "1. Repairs locks.

2 "2. Rebuilds locks.

3 "3. Rekeys locks.

4 "4. Services locks.

5 "5. Adjusts locks.

6 "6. Installs locks or mechanical locking devices.

7 "7. Installs or services egress controls devices.

8 "8. Installs or services vaults and safety deposit
9 boxes, including those services performed by safe technicians.

10 "9. Creates or copies transponder keys and any other
11 automotive keys and electronic operating devices connected to
12 motor vehicles.

13 "10. Creates or copies key fobs, proximity keys,
14 smart keys, door and ignition key devices, or successive
15 electronic or other high security key technology.

16 "11. Uses any other method of bypassing a locking
17 mechanism of any kind including, but not limited to, shimming
18 a lock or picking and popping a lock.

19 "b. The term does not include any of the following:

20 "1. A person whose activities are limited to making
21 a duplicate key of an existing key.

22 "2. A person or business entity that does not
23 advertise providing locksmith services to the public.

24 "3. A person or business entity that is licensed by
25 the board on the effective date of the act adding this
26 amendatory language to install or service electronic access

1 control systems, provided any lock being serviced or installed
2 has electronic access control capabilities.

3 "4. Police, fire, medical, or other government or
4 emergency personnel performing activities within the scope of
5 their official duties.

6 "5. A person operating a licensed towing and
7 recovery service.

8 "~~(10)~~ (11) MONITORING STATION. A location where alarm
9 signals are received as a part of an alarm system and then
10 relayed via operator to law enforcement officials.

11 "(12) SALESPERSON. A person who, for financial
12 compensation or in exchange for a thing of value, sells goods
13 or services to the public on behalf of any company, business,
14 or other entity that sells, services, or installs alarm
15 systems, CCTV systems, electronic access control systems, or
16 mechanical locks.

17 "~~(11)~~ (13) SERVICE. Necessary repair in order to
18 return the system to operational condition.

19 "(14) SYSTEM INSTALLER. A person or business entity
20 that offers to undertake, represents itself as being able to
21 undertake, or does undertake the installation, service, or
22 monitoring of alarm systems, CCTV systems, electronic access
23 control systems, or mechanical locking systems for the public
24 for any type of compensation or in exchange for a thing of
25 value.

26 "§34-1A-2.

1 "(a) The Alabama Electronic Security Board of
2 Licensure is created.

3 "(b) The board, which shall reflect the racial,
4 gender, geographic, urban and rural, and economic diversity of
5 the state, shall consist of the following members, who are
6 citizens of this state, appointed by the Governor, and subject
7 to confirmation by the Alabama Senate:

8 "(1) Two members representing the alarm system
9 industry selected from five nominees submitted by the Alabama
10 Alarm Association.

11 "(2) One member of the Alabama Consulting Engineers
12 Association selected from three nominees submitted by that
13 association.

14 "(3) One member of the Alabama Sheriff's Association
15 selected from three nominees submitted by that association.

16 "(4) One member who is a locksmith selected from
17 three nominees submitted by the Alabama Locksmith Association.

18 "(5) A person who is a representative of the
19 consumers of the state.

20 "(c) (1) The terms of the board members shall be four
21 years.

22 "(2) Of these members first appointed, two shall be
23 appointed to four-year terms, two for three-year terms, and
24 one for a two-year term.

25 "(3) Any vacancy occurring other than by expiration
26 of terms shall be filled for the remainder of the unexpired

1 term by appointment by the Governor, subject to the nominating
2 process specified in subsection (b).

3 "(4) No member shall serve more than two successive
4 four-year terms.

5 "(5) A member shall serve until a successor is
6 appointed and assumes office.

7 "(d) Members shall be paid out of the funds of the
8 board the same per diem as prescribed by law for state
9 employees for each day of attendance of a board business or
10 committee meeting.

11 "(e) Meetings shall be held at least four times per
12 year. Special meetings shall be held at the call of the chair
13 or by a majority of the members.

14 "(f) (1) The board may adopt rules of proceedings.

15 "(2) Three members of the board who are physically
16 present shall constitute a quorum.

17 "(3) The board shall elect a chair and a vice chair
18 on an annual basis. The chair or vice chair shall call
19 meetings of the board to order.

20 "(4) Members of the board may participate in a board
21 meeting by means of video conference pursuant to the Alabama
22 Open Meetings Act. Participation by video conference shall
23 qualify as attendance at a meeting in person. The board may
24 not conduct official business unless at least three members of
25 the board are physically present at the board meeting.
26 Attendance by phone without video conference capability does
27 not constitute attendance at a board meeting.

1 "(5) Members of a committee of the board may attend
2 a committee meeting by means of video conference pursuant to
3 the Alabama Open Meetings Act. Participation by video
4 conference shall qualify as attendance at a meeting in person.
5 Except as otherwise provided, a committee may not issue an
6 order or render a decision unless legal counsel for the board
7 and a member of the administrative or management staff of the
8 board is physically present. If legal counsel for the board is
9 not a member of the committee, only the physical presence of
10 one member of the administrative or management staff of the
11 board and one committee member is required to conduct
12 committee business if the remainder of the quorum of the
13 committee is satisfied by the attendance of committee members
14 by means of video conference. A majority of committee members
15 shall be physically present to constitute a quorum, conduct
16 official committee business, or render a decision. Attendance
17 by phone without video conference capability does not
18 constitute attendance at a committee meeting.

19 "§34-1A-3.

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

21 "(1) License and regulate persons and business
22 ~~entities engaged in~~ who hold themselves out as engaging in the
23 ~~business as an~~ of alarm system installer or as a locksmith,
24 closed circuit television system, or electronic access control
25 system installation or service, as a locksmith, or as an alarm
26 monitoring company.

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

7 "(3) Examine, or cause to be examined, the
8 qualifications of each applicant for licensure including the
9 preparation, administration, and grading of examinations, and
10 when necessary, requiring the applicant to supply a board
11 approved criminal background investigation check. A
12 nonresident who is not physically working in the state,
13 located more than 100 miles from the nearest state border, and
14 whose duties are limited to administrative employee or
15 monitoring station is exempt from the requirement of a
16 criminal background check.

17 "(4) License qualified applicants regulated by the
18 board. Licensing of a qualified applicant should be completed
19 within six calendar weeks after the board receives all
20 required paperwork from the applicant. This time frame may be
21 extended during annual renewal.

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

24 "(6) Levy and collect reasonable fees for licensure,
25 including, but not limited to, the application process and
26 testing of applicants, and renewal, suspension, and reissuance
27 of licenses, and costs of necessary hearings, that are

1 sufficient to cover all expenses for the administration and
2 operation of the board.

3 "(7) Promulgate rules and regulations in accordance
4 with the Administrative Procedure Act necessary to perform its
5 duties, to ensure continued competency, to prevent deceptive,
6 misleading, or criminal practices by its licensees, and to
7 effectively administer the regulatory system administered by
8 the board.

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

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

18 "(10) Ensure that periodic inspections are conducted
19 relating to the operations of licensees to ensure competency
20 and lawful compliance.

21 "(11) Require the purchase of comprehensive
22 liability insurance related to business activities in a
23 minimum specified amount.

24 "(12) Require licensees and employees of licensees
25 to have available on their person a photo identification card
26 issued by the board at all times when providing licensed
27 services.

1 "(13) Promulgate canons of ethics under which the
2 regulated professional activities of persons and business
3 entities shall be conducted.

4 "(14) Employ or contract for necessary personnel,
5 including ~~a~~ an executive director, and provide necessary
6 offices, supplies, and equipment to fulfill the requirements
7 of this chapter.

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

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

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

15 "(18) Work with the office of the Attorney General
16 and other law enforcement agencies to prohibit any violation
17 of this chapter.

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

20 "(20) Conduct inspections relating to the operations
21 of unlicensed persons, firms, or corporations to include the
22 solicitation, installation, servicing, monitoring of burglar
23 alarm systems ~~of a customer, or, locking systems, or~~
24 mechanisms, the holding of privacy codes for burglar alarm
25 systems of a customer, or the selling, installation, or
26 servicing of access control systems or CCTV to or for a
27 customer to ensure lawful compliance with this chapter.

1 "§34-1A-4.

2 "(a) The board shall promulgate ~~regulations~~ rules
3 and standards for the training and licensing of locksmiths and
4 ~~alarm~~ system installers. The board shall examine and license
5 and shall establish classifications for the purpose of
6 training and licensing for licensees under this chapter based
7 on the work performed. Licensees shall be classified as
8 administrative employee, salesperson, locksmith, burglar alarm
9 installer, electronic access control system installer, closed
10 circuit television system installer, qualifying agent, or
11 ~~central~~ monitoring station employee. Licensees shall be
12 licensed in an appropriate classification in order to perform
13 work in each respective classification.

14 "(b) The board ~~shall,~~ after a public hearing and
15 consultation with persons who are knowledgeable regarding the
16 business and pursuant to the Alabama Administrative Procedure
17 Act, shall establish by board rules or regulations competency
18 standards and any changes of the standards.

19 "(c) The board may evaluate the competency of
20 applicants for licenses. The board may either develop and
21 administer an examination to evaluate competency, or rely on
22 an examination developed and administered by a national or
23 regional professional association.

24 "§34-1A-5.

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

1 "(b) (1) Effective beginning January 1, 2014, the
2 license fee for a two-year period as set by the board shall
3 not exceed three hundred dollars (\$300) for an individual and
4 one thousand five hundred dollars (\$1,500) for a business
5 entity.

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

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

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

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

1 board finds that the applicant is unfit or unsuited to engage
2 in the business.

3 "b. The board may consult with appropriate state or
4 federal law enforcement authorities to verify whether an
5 applicant has a criminal record prior to granting any license
6 and, as an aid to this duty, each applicant may be required to
7 provide his or her fingerprints and complete an affidavit of
8 his or her criminal record, if any, as a part of the
9 application. The board may periodically consult with state and
10 federal law enforcement officials to determine whether current
11 licensees have new criminal convictions. The administrative or
12 management staff of the board may also consult with state or
13 federal law enforcement authorities to determine if a current
14 or potential employee has a criminal conviction. Dissemination
15 of criminal history record information shall be handled in
16 accordance with the rules and procedures of the Alabama State
17 Law Enforcement Agency or the Federal Bureau of Investigation,
18 as applicable.

19 "(e) Any license granted pursuant to this chapter
20 shall be issued for a two-year period, but may be staggered
21 for renewal as otherwise provided for. Any license shall
22 expire on a schedule established by rule of the board, unless
23 it is renewed pursuant to regulations established by the board
24 or unless it is suspended or revoked.

25 "(f) An affirmative vote of a majority of board
26 members shall be required before any action to suspend or
27 revoke a license, to impose a sanction on a licensee, or to

1 levy a monetary penalty. A board member shall disqualify
2 himself or herself and withdraw from any case in which he or
3 she cannot accord fair and impartial consideration.

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

6 "(1) Conforming to the provisions of this chapter
7 and the regulations of the board.

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

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

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

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

20 "(k) The board shall prepare information of consumer
21 interest describing the regulatory functions and describing
22 the procedures of the board by which consumer complaints shall
23 be filed with and resolved by the board. The board shall make
24 the information available to the general public and
25 appropriate state agencies. The board shall provide upon
26 request a listing of all licensees. The board may collect a
27 fee for the cost of duplicating and mailing materials.

1 "(l) Each written contract for services in the state
2 of a licensee shall contain the name, mailing address, and
3 telephone number of the board and a statement informing
4 consumers that complaints against licensees may be directed to
5 the board.

6 "(m) Notice of the issuance, revocation,
7 reinstatement, or expiration of every license issued by the
8 board shall be furnished to the sheriff of the county and the
9 chief of police, as appropriate, and the inspection department
10 of the city where the principal place of business of a
11 licensee is located.

12 "(n) Information contained in alarm system records
13 held by the board concerning the location of an alarm system,
14 the name of the occupant residing at the alarm system
15 location, or the type of alarm system used shall be
16 confidential and disclosed only to the board or as otherwise
17 required by law.

18 "(o) A licensee, upon completing an installation,
19 shall provide a paper copy or electronic email copy of all
20 contracts to the consumer, or his or her designee.

21 "§34-1A-6.

22 "The licensing and regulatory provision of this
23 chapter shall not apply to any of the following persons,
24 entities, or activities:

25 "~~(1) A person or business entity which only sells~~
26 ~~alarm systems at the premises of a customer, but does not~~
27 ~~enter the premises of the customer or install, service,~~

1 ~~monitor, or respond to the alarm system at the premises of the~~
2 ~~customer.~~

3 "~~(2)~~(1) The installation, servicing, monitoring, or
4 responding to an alarm device which is installed in a motor
5 vehicle, aircraft, or boat.

6 "~~(3)~~(2) The installation of an alarm system on
7 property owned by or leased to the installer.

8 "~~(4)~~(3) A person or business entity who owns,
9 installs, services, or monitors alarm systems, CCTV systems,
10 electronic access control systems, or mechanical locking
11 systems, on ~~his or her own~~ property owned by or leased to him
12 or her or the business entity or, if ~~he or she~~ the person or
13 business entity does not charge for the system or its
14 installation, installs it for the protection of his or her
15 personal property located on the property of another, and does
16 not install or monitor the system as a normal business
17 practice on the property of another.

18 "~~(5)~~(4) A person or business entity whose sale of an
19 alarm system, CCTV system, electronic access control system,
20 or mechanical lock is ~~exclusively~~ over-the-counter or by
21 telephone, Internet, or mail order and the person or business
22 entity does not engage in the installation or service of the
23 system or locking mechanism in the state.

24 "~~(6)~~(5) A person or business entity in the business
25 of building construction that installs electrical wiring and
26 devices that may include in part the installation of an alarm
27 system if both of the following apply:

1 "a. The person or business entity is a party to a
2 contract that provides that the installation shall be
3 performed under the direct supervision of, inspected, and
4 certified by a person or business entity licensed to install
5 an alarm system and that the licensee assumes full
6 responsibility for the installation and service of the alarm
7 system.

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

10 "~~(7)~~ (6) The response to an alarm system or lockout
11 by a law enforcement agency or by a law enforcement officer or
12 emergency response officer acting in an official capacity.

13 "~~(8)~~ (7) A business that engages in the installation
14 or operation of telecommunications facilities or equipment
15 which are used for the transport of any signal, data, or
16 information outside the continuous premises on which any alarm
17 system is installed or maintained.

18 "~~(9)~~ (8) Any business entity, business owner, or
19 person, or the agent or employee of ~~such~~ the business entity,
20 business owner, or person engaging in the routine visual
21 inspection or manufacturer's or installer's recommended
22 testing of an alarm system subject to this chapter owned by
23 the business entity, business owner, or person and installed
24 on property under the control of the business entity, business
25 owner, or person.

26 "~~(10)~~ (9) Any real estate licensee operating within
27 the scope of his or her license on behalf of a customer or

1 client, or under a written property management service
2 agreement or sales agreement, or any business entity, or
3 person, or those engaged in property management, or agent or
4 subcontractors or employees thereof, who, in the normal course
5 of business, engage in the routine inspection, service, or
6 replacement of ~~such~~ alarm systems, fire alarm or fire/smoke
7 detection systems, fire communication systems, or security
8 devices subject to this chapter, on or in property owned or
9 under the control of ~~such~~ the business entity, or person, or
10 property manager.

11 " ~~(11)~~ (10) Consulting engineers who design, develop,
12 modify, or offer other services within the scope of their
13 profession regarding alarm systems.

14 " ~~(12)~~ (11) A licensed general contractor and the
15 employees of the contractor whose activities are limited to
16 the projects that qualify for a license by the State Licensing
17 Board for General Contractors under Chapter 8 of this title
18 and rules adopted pursuant to that chapter.

19 " ~~(13)~~ (12) A licensed electrician, master
20 electrician, ~~and~~ or electrical contractor who is licensed by
21 the city, county, or state and their employees whose
22 activities are limited to the projects of the licensed
23 electrician, master electrician, and electrical contractor. To
24 claim the exemption, the person or business entity may not
25 service, monitor, maintain, or sell the system and may not be
26 in the business of servicing, monitoring, maintaining, or
27 selling the system. If the person or business entity is in the

1 business of providing these services, the person or business
2 entity shall be licensed by the board. This exemption only
3 applies to the installation of wiring or equipment, or both,
4 and does not extend to the activation of the equipment, the
5 maintenance of the equipment, or the monitoring of the
6 equipment, which may only be performed by a licensee of the
7 board.

8 "~~(14)~~ (13) A licensed homebuilder and the employees
9 of the homebuilder whose activities are limited to the
10 projects of the licensed homebuilder.

11 "~~(15)~~ (14) A new motor vehicle dealer, as defined in
12 subdivision (9) of Section 40-12-390 and licensed by the
13 Department of Revenue, and employees of the dealer who are
14 replacing or repairing locks or burglar alarm systems on motor
15 vehicles in the dealer's inventory or on customer-owned
16 vehicles delivered to the dealer for repair.

17 "(15) The replacement of a thermostat or controlling
18 device to an existing HVAC system that utilizes the existing
19 wiring system without alteration or replacement of the
20 existing circuitry, electronic alarm, CCTV, or access control
21 system.

22 "(16) An automobile club or association that holds a
23 certificate of authority under Chapter 39 of Title 27, and any
24 subcontractor of the club or association that unlocks vehicles
25 at the request of the owner, authorized operator, or occupant
26 of the vehicle and does not advertise services as a locksmith
27 or otherwise perform locksmith services.

1 "§34-1A-7.

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

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

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

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

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

21 "(2) Knowingly and deliberately improperly install
22 an alarm system, or knowingly and deliberately improperly
23 service such a system.

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

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

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

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

9 "(7) Make use of any title, words, letters, or
10 abbreviations which may reasonably be confused with a
11 designation provided by statute or regulation to denote a
12 standard of professional or occupational competence without
13 being duly licensed.

14 "(8) Provide material misrepresenting facts in an
15 application for licensure or in other communications with the
16 board.

17 "(9) Refuse to furnish the board information or
18 records required or requested pursuant to statute or
19 regulation.

20 "(e) Commencing on the effective date of the act
21 adding this subsection, it shall also constitute a Class A
22 misdemeanor to willfully or intentionally do any of the
23 following:

24 "(1) Advertise alarm system services or locksmith
25 services to the public by any means without possessing an
26 active license issued by the board during the licensing year
27 in which the advertisement appears.

1 "(2) Install, service, or sell an alarm system or
2 provide locksmith services while on state or federal probation
3 or parole without a license or, if licensed, without first
4 providing proper written documentation by certified mail or
5 courier service of the probation or parole status to the
6 board.

7 "(3) Perform unsolicited sales or installation, or
8 both, of an alarm system or locking system at the home or
9 property of a person who is age 75 or older, without providing
10 the person with a waiting period of at least four business day
11 after the initial contact and at least 30 business days to
12 cancel any executed contract, before performing the
13 installation or service, unless otherwise authorized by this
14 chapter.

15 "(4) Deceive or defraud a person who is age 60 or
16 older in violation of the Protecting Alabama's Elders Act,
17 Chapter 6, commencing with Section 13A-6-190, of Title 13A.

18 ~~"(e)~~ (f) Any person or business entity that is not
19 licensed by the board, or has not renewed a license within the
20 immediately preceding 24 months, may be subject to injunctive
21 action in a court of competent jurisdiction. The board may
22 institute proceedings in equity to enjoin any person or
23 business entity from engaging in any unlawful act enumerated
24 in this chapter. Such proceedings shall be brought in the name
25 of this state by the board in the circuit court of the city or
26 county in which the unlawful act occurred or in which the
27 defendant resides. If the board obtains injunctive relief, the

1 individual or business entity shall be subject to a one
2 thousand dollar (\$1,000) fine for each instance of performing
3 locksmith, alarm, CCTV, or other activity regulated by this
4 chapter.

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

14 ~~"(g)"~~ (h) The board is entitled to court costs,
15 reasonable investigatory fees, and reasonable attorney fees in
16 any civil action or administrative proceeding in which the
17 board obtains relief.

18 ~~"(h)"~~ (i) In addition to or in lieu of the criminal
19 penalties and administrative sanctions provided in this
20 chapter, the board may issue an order to any person, firm, or
21 corporation engaged in any activity, conduct, or practice
22 constituting a violation of this chapter to show cause why an
23 order should not be issued directing the person, firm, or
24 corporation to cease and desist from the activity, conduct,
25 practice, or the performance of any work being done then or
26 about to be commenced. If the person, firm, or corporation
27 files a written request for a hearing before the board within

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

26 ~~"(i)"~~ (j) Any person violating this chapter who fails
27 to cease work after a hearing and notification from the board

1 or having an injunction issued by a court of competent
2 jurisdiction shall not be eligible to apply for a license from
3 the board for a period not to exceed one year from the date of
4 official notification to cease work. In addition, the board
5 may withhold approval for up to six months of any application
6 from any person who prior to the application has been found in
7 violation of this chapter.

8 "§34-1A-8.

9 "(a) This chapter and the rules and regulations
10 promulgated pursuant to this chapter shall have uniform force
11 and effect throughout the state. A municipality or county
12 shall not enact an order, ordinance, rule, or regulation
13 requiring a person or business entity to obtain a
14 certification from the municipality or county, other than
15 proof of a valid license issued by the board.

16 "(b) This chapter shall not affect any general
17 statute or municipal ordinance requiring a business license
18 for ~~an alarm~~ a system installer.

19 "(c) Nothing in this chapter limits the power of a
20 municipality, a county, or the state to require the submission
21 and approval of plans and specifications or to regulate the
22 quality and character of work performed by contractors through
23 a system of licenses, fees, and inspections otherwise
24 authorized by law for the protection of the public health and
25 safety."

26 Section 2. Although this bill would have as its
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further
2 requirements and application under Amendment 621, now
3 appearing as Section 111.05 of the Official ReCompilation of
4 the Constitution of Alabama of 1901, as amended, because the
5 bill defines a new crime or amends the definition of an
6 existing crime.

7 Section 3. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.