

1 SB253
2 135513-3
3 By Senators Whatley and Ward
4 RFD: Small Business
5 First Read: 08-FEB-12

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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 repeal this provision.

4
5 A BILL

6 TO BE ENTITLED

7 AN ACT

8
9 To amend Sections 34-1A-1, 34-1A-3, 34-1A-5,
10 34-1A-6, and 34-1A-7 of the Code of Alabama 1975, relating to
11 the Electronic Security Board of Licensure and providing for
12 the licensure and regulation of alarm system installers and
13 locksmiths, to further provide for the definition of
14 locksmith, to provide that the powers of the board include
15 making inspections relating to unlicensed operations, to
16 provide for the issuance of licenses for a two-year period and
17 for the renewals to be staggered, to further provide for
18 exemptions and the application of exemptions, to specify that
19 each offense would be punishable as provided by law, and would
20 further provide for civil enforcement, including civil fines,
21 for violations of the licensure law; and to repeal Section
22 34-1A-10 of the Code of Alabama 1975, exempting counties
23 having a population of 30,000 or less from the operation of
24 the law.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 34-1A-1, 34-1A-3, 34-1A-5,
2 34-1A-6, and 34-1A-7 of the Code of Alabama 1975, are amended
3 to read as follows:

4 "§34-1A-1.

5 "For the purpose of this chapter, the following
6 terms shall have the following meanings unless the context
7 clearly indicates otherwise:

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

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

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

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

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

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

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

16 "(8) 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 "(9) SERVICE. Necessary repair in order to return
21 the system to operational condition.

22 "§34-1A-3.

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

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

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 background investigation.

12 "(4) License qualified applicants regulated by the
13 board.

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

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

22 "(7) Promulgate rules and regulations in accordance
23 with the Administrative Procedure Act necessary to perform its
24 duties, to ensure continued competency, to prevent deceptive,
25 misleading, or criminal practices by its licensees, and to
26 effectively administer the regulatory system administered by
27 the board.

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

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

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

13 "(11) Require the purchase of comprehensive
14 liability insurance related to business activities in a
15 minimum specified amount.

16 "(12) Require licensees and employees of licensees
17 have available a photo identification card at all times when
18 providing licensed services.

19 "(13) Promulgate canons of ethics under which the
20 regulated professional activities of persons and business
21 entities shall be conducted.

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

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

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

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

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

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

11 "(20) Conduct inspections relating to the operations
12 of unlicensed persons, firms, or corporations to ensure lawful
13 compliance with this chapter.

14 "§34-1A-5.

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

18 "~~(b) The annual~~(b) (1) Effective beginning January 1,
19 2013, the license fee for a two-year period as set by the
20 board shall not exceed ~~one hundred fifty dollars (\$150)~~ three
21 hundred dollars (\$300) for an individual and ~~seven hundred~~
22 ~~fifty dollars (\$750)~~ one thousand five hundred dollars
23 (\$1,500) for a business entity.

24 "(2) Effective for the license year beginning
25 January 1, 2013, and thereafter, the board may provide for the
26 licenses to be renewed on a staggered basis as determine by
27 rule of the board and, in order to stagger the license

1 renewals, may issue the license for less than a two-year
2 period. The amount of the license fees provided in subdivision
3 (1) shall be prorated by the board on a monthly basis for the
4 number of months the board issues the licenses in order to
5 convert to any staggered system of renewals.

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

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

13 "(2)a. An applicant shall not be refused a license
14 solely because of a prior criminal conviction, unless the
15 criminal conviction directly relates to the occupation or
16 profession for which the license is sought. The board may
17 refuse a license if, based on all the information available,
18 including the applicant's record of prior convictions, the
19 board finds that the applicant is unfit or unsuited to engage
20 in the business.

21 "b. The board may consult with appropriate state or
22 federal law enforcement authorities to verify whether an
23 applicant has a criminal record prior to granting any license
24 and, as an aid to this duty, each applicant may be required to
25 provide his or her fingerprints and complete an affidavit of
26 his or her criminal record, if any, as a part of the
27 application. The board may periodically consult with state and

1 federal law enforcement officials to determine whether current
2 licensees have new criminal convictions.

3 "(e) Any license granted pursuant to this chapter
4 shall be issued for a two-year period, but may be staggered
5 for renewals as otherwise provided for. Any license shall
6 expire December 31 of each year unless it is renewed pursuant
7 to ~~regulations~~ rules established by the board or unless it is
8 suspended or revoked.

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

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

17 "(1) Conforming to the provisions of this chapter
18 and the regulations of the board.

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

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

24 "(i) A notice shall be displayed prominently in the
25 place of business of each licensee regulated pursuant to this
26 chapter containing the name, mailing address, and telephone

1 number of the board, and a statement informing consumers that
2 complaints against licensees may be directed to the board.

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

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

13 "(l) Each written contract for services in the state
14 of a licensee shall contain the name, mailing address, and
15 telephone number of the board and a statement informing
16 consumers that complaints against licensees may be directed to
17 the board.

18 "(m) Notice of the issuance, revocation,
19 reinstatement, or expiration of every license issued by the
20 board shall be furnished to the sheriff of the county and the
21 chief of police, as appropriate, and the inspection department
22 of the city where the principal place of business of a
23 licensee is located.

24 "(n) Information contained in alarm system records
25 held by the board concerning the location of an alarm system,
26 the name of the occupant residing at the alarm system
27 location, or the type of alarm system used shall be

1 confidential and disclosed only to the board or as otherwise
2 required by law.

3 "§34-1A-6.

4 "~~The~~ (a) Subject to subsection (b), the licensing and
5 regulatory provision of this chapter shall not apply to any of
6 the following persons, entities, or activities:

7 "(1) A person or business entity which only sells
8 alarm systems at the premises of a customer, but does not
9 enter the premises of the customer or install, service,
10 monitor, or respond to the alarm system at the premises of the
11 customer.

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

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

17 "(4) A person or business entity who owns, installs,
18 or monitors alarm systems, on his or her own property or, if
19 he or she does not charge for the system or its installation,
20 installs it for the protection of his or her personal property
21 located on the property of another, and does not install or
22 monitor the system as a normal business practice on the
23 property of another.

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

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

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

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

14 "(7) The response to an alarm system by a law
15 enforcement agency or by a law enforcement officer acting in
16 an official capacity.

17 "(8) A business that engages in the installation or
18 operation of telecommunications facilities or equipment which
19 are used for the transport of any signal, data, or information
20 outside the continuous premises on which any alarm system is
21 installed or maintained.

22 "(9) Any business entity, business owner, or person,
23 or the agent or employee of such business entity, business
24 owner, or person engaging in the routine visual inspection or
25 manufacturer's or installer's recommended testing of an alarm
26 system subject to this chapter owned by the business entity,

1 business owner, or person and installed on property under the
2 control of the business entity, business owner, or person.

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

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

15 "(12) A licensed general contractor and the
16 employees of the contractor whose activities are limited to
17 the projects that qualify for a license by the State Licensing
18 Board for General Contractors.

19 "(13) A licensed electrician, master electrician,
20 and electrical contractor who is licensed by the city, county,
21 or state and their employees whose activities are limited to
22 the projects of the licensed electrician, master electrician,
23 and electrical contractor.

24 "(14) A licensed homebuilder and the employees of
25 the homebuilder whose activities are limited to the projects
26 of the licensed homebuilder.

1 "(b) Notwithstanding the exemptions contained in
2 subsection (a), a person or entity shall be subject to the
3 licensing requirements under this chapter if the person or
4 entity solicits, installs, services, or monitors burglar alarm
5 systems or hold privacy codes for burglar alarm systems of a
6 customer, or sells, installs, or services access control
7 systems or CCTV.

8 "§34-1A-7.

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

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

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

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

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

1 "(2) Knowingly and deliberately improperly install
2 an alarm system, or knowingly and deliberately improperly
3 service such a system.

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

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

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

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

14 "(7) Make use of any title, words, letters, or
15 abbreviations which may reasonably be confused with a
16 designation provided by statute or regulation to denote a
17 standard of professional or occupational competence without
18 being duly licensed.

19 "(8) Provide material misrepresenting facts in an
20 application for licensure or in other communications with the
21 board.

22 "(9) Refuse to furnish the board information or
23 records required or requested pursuant to statute or
24 regulation.

25 "(e) The board may institute proceedings in equity
26 to enjoin any person or business entity from engaging in any
27 unlawful act enumerated in this chapter. Such proceedings

1 shall be brought in the name of this state by the board in the
2 circuit court of the city or county in which the unlawful act
3 occurred or in which the defendant resides.

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

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

16 "(h) In addition to or in lieu of the criminal
17 penalties and administrative sanctions provided in this
18 chapter, the board may issue an order to any person, firm, or
19 corporation engaged in any activity, conduct, or practice
20 constituting a violation of this chapter directing the person,
21 firm, or corporation to forthwith cease and desist from the
22 activity, conduct, practice, or the performance of any work
23 being done then or about to be commenced. The order shall be
24 issued in the name of the State of Alabama under the official
25 seal of the board. If the person, firm, or corporation to whom
26 the board directs a cease and desist order does not cease or
27 desist the proscribed activity, conduct, practice, or

1 performance of the work immediately, the board may petition
2 any court of competent jurisdiction to issue a writ of
3 injunction enjoining the person, firm, or corporation from
4 engaging in any activity, conduct, practice, or performance of
5 work as prohibited by this chapter. Upon a showing by the
6 board that the person, firm, or corporation has engaged or is
7 engaged in any activity, conduct, practice, or performance of
8 any work prohibited by this chapter, the court shall grant
9 injunctive relief enjoining the person, firm, or corporation
10 from engaging in such unlawful activity, conduct, practice, or
11 performance of work. Upon the issuance of a permanent
12 injunction, the court may fine the offending party up to five
13 thousand dollars (\$5,000), plus costs and attorney fees, for
14 each offense. A judgment for a civil fine, attorney fees, and
15 costs may be rendered in the same judgment in which the
16 injunction is made absolute.

17 "(i) Any person violating this chapter who fails to
18 cease work after a hearing and notification from the board
19 shall not be eligible to apply for a license from the board
20 for a period not to exceed one year from the date of official
21 notification to cease work. In addition, the board may
22 withhold approval for up to six months of any application from
23 any person who prior to the application has been found in
24 violation of this chapter."

25 Section 2. Section 34-1A-10 of the Code of Alabama
26 1975, is repealed.

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