

ALARM COMPANY EMPLOYEE LICENSING

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies provisions relating to the licensing of alarm company employees.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "alarm company agent" to exclude certain alarm company employees from licensing requirements; and
- ▶ enacts a definition of "sensitive alarm system information."

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-102, as last amended by Laws of Utah 2012, Chapter 25

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-55-102** is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

30 (b) "Alarm business or company" does not include:

31 (i) a person engaged in the manufacture and sale of alarm systems when that person is
32 not engaged in the installation, maintenance, alteration, repair, replacement, servicing, or
33 monitoring of alarm systems, and the manufacture or sale occurs only at a place of business
34 established by the person engaged in the manufacture or sale and does not involve site visits at
35 the place or intended place of installation of an alarm system; or

36 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
37 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
38 of the alarm system owned by that owner.

39 (2) "Alarm company agent":

40 (a) except as provided in Subsection (2)(b), means any individual employed within this
41 state by [a person engaged in the] an alarm business[-]; and

42 (b) does not include an individual who:

43 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
44 servicing, or monitoring of an alarm system; and

45 (ii) does not, during the normal course of the individual's employment with an alarm
46 business, use or have access to sensitive alarm system information.

47 (3) "Alarm system" means equipment and devices assembled for the purpose of:

48 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
49 premises; or

50 (b) signaling a robbery or attempted robbery on protected premises.

51 (4) "Apprentice electrician" means a person licensed under this chapter as an
52 apprentice electrician who is learning the electrical trade under the immediate supervision of a
53 master electrician, residential master electrician, a journeyman electrician, or a residential
54 journeyman electrician.

55 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
56 plumber who is learning the plumbing trade under the immediate supervision of a master
57 plumber, residential master plumber, journeyman plumber, or a residential journeyman

58 plumber.

59 (6) "Approved continuing education" means instruction provided through courses
60 under a program established under Subsection 58-55-302.5(2).

61 (7) "Board" means the Electrician Licensing Board, Alarm System Security and
62 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

63 (8) "Combustion system" means an assembly consisting of:

64 (a) piping and components with a means for conveying, either continuously or
65 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
66 appliance;

67 (b) the electric control and combustion air supply and venting systems, including air
68 ducts; and

69 (c) components intended to achieve control of quantity, flow, and pressure.

70 (9) "Commission" means the Construction Services Commission created under Section
71 58-55-103.

72 (10) "Construction trade" means any trade or occupation involving:

73 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
74 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
75 or other project, development, or improvement to other than personal property; and

76 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
77 defined in Section 15A-1-302; or

78 (b) installation or repair of a residential or commercial natural gas appliance or
79 combustion system.

80 (11) "Construction trades instructor" means a person licensed under this chapter to
81 teach one or more construction trades in both a classroom and project environment, where a
82 project is intended for sale to or use by the public and is completed under the direction of the
83 instructor, who has no economic interest in the project.

84 (12) (a) "Contractor" means any person who for compensation other than wages as an
85 employee undertakes any work in the construction, plumbing, or electrical trade for which

86 licensure is required under this chapter and includes:

87 (i) a person who builds any structure on the person's own property for the purpose of
88 sale or who builds any structure intended for public use on the person's own property;

89 (ii) any person who represents that the person is a contractor by advertising or any
90 other means;

91 (iii) any person engaged as a maintenance person, other than an employee, who
92 regularly engages in activities set forth under the definition of "construction trade";

93 (iv) any person engaged in any construction trade for which licensure is required under
94 this chapter; or

95 (v) a construction manager who performs management and counseling services on a
96 construction project for a fee.

97 (b) "Contractor" does not include an alarm company or alarm company agent.

98 (13) (a) "Electrical trade" means the performance of any electrical work involved in the
99 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
100 buildings, or appendages or appurtenances.

101 (b) "Electrical trade" does not include:

102 (i) transporting or handling electrical materials;

103 (ii) preparing clearance for raceways for wiring; or

104 (iii) work commonly done by unskilled labor on any installations under the exclusive
105 control of electrical utilities.

106 (c) For purposes of Subsection (13)(b):

107 (i) no more than one unlicensed person may be so employed unless more than five
108 licensed electricians are employed by the shop; and

109 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
110 permitted by this Subsection (13)(c).

111 (14) "Elevator" has the same meaning as defined in Section 34A-7-202, except that for
112 purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline
113 platform lift.

114 (15) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under
115 this chapter that is engaged in the business of erecting, constructing, installing, altering,
116 servicing, repairing, or maintaining an elevator.

117 (16) "Elevator mechanic" means an individual who is licensed under this chapter as an
118 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,
119 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

120 (17) "Employee" means an individual as defined by the division by rule giving
121 consideration to the definition adopted by the Internal Revenue Service and the Department of
122 Workforce Services.

123 (18) "Engage in a construction trade" means to:

124 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
125 in a construction trade; or

126 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
127 to believe one is or will act as a contractor.

128 (19) (a) "Financial responsibility" means a demonstration of a current and expected
129 future condition of financial solvency evidencing a reasonable expectation to the division and
130 the board that an applicant or licensee can successfully engage in business as a contractor
131 without jeopardy to the public health, safety, and welfare.

132 (b) Financial responsibility may be determined by an evaluation of the total history
133 concerning the licensee or applicant including past, present, and expected condition and record
134 of financial solvency and business conduct.

135 (20) "Gas appliance" means any device that uses natural gas to produce light, heat,
136 power, steam, hot water, refrigeration, or air conditioning.

137 (21) (a) "General building contractor" means a person licensed under this chapter as a
138 general building contractor qualified by education, training, experience, and knowledge to
139 perform or superintend construction of structures for the support, shelter, and enclosure of
140 persons, animals, chattels, or movable property of any kind or any of the components of that
141 construction except plumbing, electrical work, mechanical work, work related to the operating

142 integrity of an elevator, and manufactured housing installation, for which the general building
143 contractor shall employ the services of a contractor licensed in the particular specialty, except
144 that a general building contractor engaged in the construction of single-family and multifamily
145 residences up to four units may perform the mechanical work and hire a licensed plumber or
146 electrician as an employee.

147 (b) The division may by rule exclude general building contractors from engaging in the
148 performance of other construction specialties in which there is represented a substantial risk to
149 the public health, safety, and welfare, and for which a license is required unless that general
150 building contractor holds a valid license in that specialty classification.

151 (22) (a) "General engineering contractor" means a person licensed under this chapter as
152 a general engineering contractor qualified by education, training, experience, and knowledge to
153 perform construction of fixed works in any of the following: irrigation, drainage, water, power,
154 water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports
155 and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring
156 specialized engineering knowledge and skill, piers, and foundations, or any of the components
157 of those works.

158 (b) A general engineering contractor may not perform construction of structures built
159 primarily for the support, shelter, and enclosure of persons, animals, and chattels.

160 (23) "Immediate supervision" means reasonable direction, oversight, inspection, and
161 evaluation of the work of a person:

162 (a) as the division specifies in rule;

163 (b) by, as applicable, a qualified electrician or plumber;

164 (c) as part of a planned program of training; and

165 (d) to ensure that the end result complies with applicable standards.

166 (24) "Individual" means a natural person.

167 (25) "Journeyman electrician" means a person licensed under this chapter as a
168 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
169 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

170 (26) "Journeyman plumber" means a person licensed under this chapter as a
171 journeyman plumber having the qualifications, training, experience, and technical knowledge
172 to engage in the plumbing trade.

173 (27) "Master electrician" means a person licensed under this chapter as a master
174 electrician having the qualifications, training, experience, and knowledge to properly plan,
175 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
176 for light, heat, power, and other purposes.

177 (28) "Master plumber" means a person licensed under this chapter as a master plumber
178 having the qualifications, training, experience, and knowledge to properly plan and layout
179 projects and supervise persons in the plumbing trade.

180 (29) "Person" means a natural person, sole proprietorship, joint venture, corporation,
181 limited liability company, association, or organization of any type.

182 (30) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
183 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
184 three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:

- 185 (i) delivery of the water supply;
- 186 (ii) discharge of liquid and water carried waste; or
- 187 (iii) the building drainage system within the walls of the building.

188 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
189 fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains
190 together with their devices, appurtenances, and connections where installed within the outside
191 walls of the building.

192 (31) (a) "Ratio of apprentices" means, for the purpose of determining compliance with
193 the requirements for planned programs of training and electrician apprentice licensing
194 applications, the shop ratio of apprentice electricians to journeyman or master electricians shall
195 be one journeyman or master electrician to one apprentice on industrial and commercial work,
196 and one journeyman or master electrician to three apprentices on residential work.

197 (b) On-the-job training shall be under circumstances in which the ratio of apprentices

198 to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to
199 three apprentices to one supervisor on residential projects.

200 (32) "Residential and small commercial contractor" means a person licensed under this
201 chapter as a residential and small commercial contractor qualified by education, training,
202 experience, and knowledge to perform or superintend the construction of single-family
203 residences, multifamily residences up to four units, and commercial construction of not more
204 than three stories above ground and not more than 20,000 square feet, or any of the components
205 of that construction except plumbing, electrical work, mechanical work, and manufactured
206 housing installation, for which the residential and small commercial contractor shall employ
207 the services of a contractor licensed in the particular specialty, except that a residential and
208 small commercial contractor engaged in the construction of single-family and multifamily
209 residences up to four units may perform the mechanical work and hire a licensed plumber or
210 electrician as an employee.

211 (33) "Residential building," as it relates to the license classification of residential
212 journeyman plumber and residential master plumber, means a single or multiple family
213 dwelling of up to four units.

214 (34) "Residential journeyman electrician" means a person licensed under this chapter
215 as a residential journeyman electrician having the qualifications, training, experience, and
216 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,
217 and other purposes on buildings using primarily nonmetallic sheath cable.

218 (35) "Residential journeyman plumber" means a person licensed under this chapter as a
219 residential journeyman plumber having the qualifications, training, experience, and knowledge
220 to engage in the plumbing trade as limited to the plumbing of residential buildings.

221 (36) "Residential master electrician" means a person licensed under this chapter as a
222 residential master electrician having the qualifications, training, experience, and knowledge to
223 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus
224 and equipment for light, heat, power, and other purposes on residential projects.

225 (37) "Residential master plumber" means a person licensed under this chapter as a

226 residential master plumber having the qualifications, training, experience, and knowledge to
227 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
228 plumbing of residential buildings.

229 (38) "Residential project," as it relates to an electrician or electrical contractor, means
230 buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules
231 and regulations governing this work, including the National Electrical Code, and in which the
232 voltage does not exceed 250 volts line to line and 125 volts to ground.

233 (39) "Sensitive alarm system information" means:

234 (a) a pass code or other code used in the operation of an alarm system;

235 (b) information on the location of alarm system components at the premises of a
236 customer of the alarm business providing the alarm system;

237 (c) information that would allow the circumvention, bypass, deactivation, or other
238 compromise of an alarm system of a customer of the alarm business providing the alarm
239 system; and

240 (d) any other similar information that the division by rule determines to be information
241 that an individual employed by an alarm business should use or have access to only if the
242 individual is licensed as provided in this chapter.

243 [~~39~~] (40) (a) "Specialty contractor" means a person licensed under this chapter under
244 a specialty contractor classification established by rule, who is qualified by education, training,
245 experience, and knowledge to perform those construction trades and crafts requiring
246 specialized skill, the regulation of which are determined by the division to be in the best
247 interest of the public health, safety, and welfare.

248 (b) A specialty contractor may perform work in crafts or trades other than those in
249 which the specialty contractor is licensed if they are incidental to the performance of the
250 specialty contractor's licensed craft or trade.

251 [~~40~~] (41) "Unincorporated entity" means an entity that is not:

252 (a) an individual;

253 (b) a corporation; or

254 (c) publicly traded.

255 [~~(41)~~] (42) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

256 [~~(42)~~] (43) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502

257 and as may be further defined by rule.

258 [~~(43)~~] (44) "Wages" means amounts due to an employee for labor or services whether

259 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for

260 calculating the amount.