

1 SB52
2 146394-4
3 By Senator Whatley
4 RFD: Governmental Affairs
5 First Read: 05-FEB-13
6 PFD: 01/22/2013

1 SB52

2
3
4 ENROLLED, An Act,

5 To amend Sections 34-1A-1, 34-1A-3, 34-1A-5, as
6 amended by Act 2012-177, 34-1A-6, 34-1A-7, and 34-1A-10 of the
7 Code of Alabama 1975, relating to the Electronic Security
8 Board of Licensure and providing for the licensure and
9 regulation of alarm system installers and locksmiths, to
10 further provide for the definition of locksmith, to provide
11 that the powers of the board include making inspections
12 relating to unlicensed operations, to provide for the issuance
13 of licenses for a two-year period and for the renewals to be
14 staggered, to further provide for exemptions and the
15 application of exemptions, to specify that each offense would
16 be punishable as provided by law, would further provide for
17 civil enforcement, including civil fines, for violations of
18 the licensure law; and would provide that in counties having a
19 population of 30,000 or less, certain persons would be exempt
20 from the operation of the law under certain conditions.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 "§34-1A-1.

1 "For the purpose of this chapter, the following
2 terms shall have the following meanings unless the context
3 clearly indicates otherwise:

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

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

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

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

23 "(5) CLOSED CIRCUIT TELEVISION SYSTEM (CCTV). A
24 combination of electronic equipment and devices designed and
25 arranged for the viewing, monitoring, or recording of video

1 signals transmitted from transmitters, such as cameras, to
2 receivers, such as monitors, digital video recorders, and
3 network video recorders (NVR) through a closed cable or other
4 video signal transmission method.

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

10 "(7) INSTALLATION. The initial placement of
11 equipment or the extension, modification, or alteration of
12 equipment after initial placement.

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

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

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 business as an alarm system installer or
23 as a locksmith.

24 "(2) Establish the qualifications for licensure to
25 ensure competency and integrity to engage in these businesses

1 and allow graduates of technical school or community college
2 programs in related fields to qualify. Qualifications for
3 licensure shall include the requirement that the applicant is
4 a United States citizen or legally present in this state.

5 "(3) Examine, or cause to be examined, the
6 qualifications of each applicant for licensure including the
7 preparation, administration, and grading of examinations, and
8 when necessary, requiring the applicant to supply a board
9 approved background investigation.

10 "(4) License qualified applicants regulated by the
11 board.

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

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

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

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.

1 "~~the annual~~ (1) Effective beginning January 1,
2 2014, the license fee for a two-year period as set by the
3 board shall not exceed ~~one hundred fifty dollars (\$150)~~ three
4 hundred dollars (\$300) for an individual and ~~seven hundred~~
5 ~~fifty dollars (\$750)~~ one thousand five hundred dollars
6 (\$1,500) for a business entity.

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

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

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

23 "(2)a. An applicant shall not be refused a license
24 solely because of a prior criminal conviction, unless the
25 criminal conviction directly relates to the occupation or

1 profession for which the license is sought. The board may
2 refuse a license if, based on all the information available,
3 including the applicant's record of prior convictions, the
4 board finds that the applicant is unfit or unsuited to engage
5 in the business.

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

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

21 "(f) An affirmative vote of a majority of board
22 members shall be required before any action to suspend or
23 revoke a license, to impose a sanction on a licensee, or to
24 levy a monetary penalty. A board member shall disqualify

1 himself or herself and withdraw from any case in which he or
2 she cannot accord fair and impartial consideration.

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

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

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

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

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

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

19 "(k) The board shall prepare information of consumer
20 interest describing the regulatory functions and describing
21 the procedures of the board by which consumer complaints shall
22 be filed with and resolved by the board. The board shall make
23 the information available to the general public and
24 appropriate state agencies. The board shall provide upon

1 request a listing of all licensees. The board may collect a
2 fee for the cost of duplicating and mailing materials.

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

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

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

20 "§34-1A-6.

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

24 "(1) A person or business entity which only sells
25 alarm systems at the premises of a customer, but does not

1 enter the premises of the customer or install, service,
2 monitor, or respond to the alarm system at the premises of the
3 customer.

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

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

9 "(4) A person or business entity who owns, installs,
10 or monitors alarm systems, on his or her own property or, if
11 he or she does not charge for the system or its installation,
12 installs it for the protection of his or her personal property
13 located on the property of another, and does not install or
14 monitor the system as a normal business practice on the
15 property of another.

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

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

23 "a. The person or business entity is a party to a
24 contract that provides that the installation shall be
25 performed under the direct supervision of, inspected, and

1 certified by a person or business entity licensed to install
2 an alarm system and that the licensee assumes full
3 responsibility for the installation and service of the alarm
4 system.

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

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

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

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

22 "(10) Any business entity, or person, or those
23 engaged in property management, or agent or subcontractors or
24 employees thereof, who, in the normal course of business,
25 engage in the routine inspection, service, or replacement of

1 such alarm systems, fire alarm or fire/smoke detection
2 systems, fire communication systems, or security devices
3 subject to this chapter, on or in property owned or under the
4 control of such business entity, or person, or property
5 manager.

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

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

13 "(13) A licensed electrician, master electrician,
14 and electrical contractor who is licensed by the city, county,
15 or state and their employees whose activities are limited to
16 the projects of the licensed electrician, master electrician,
17 and electrical contractor.

18 "(14) A licensed homebuilder and the employees of
19 the homebuilder whose activities are limited to the projects
20 of the licensed homebuilder.

21 "(15) A new motor vehicle dealer, as defined in
22 Section 40-12-390(9) and licensed by the Department of
23 Revenue, and employees of the dealer who are replacing or
24 repairing locks or burglar alarm systems on motor vehicles in

1 the dealer's inventory or on customer-owned vehicles delivered
2 to the dealer for repair.

3 "§34-1A-7.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 "(e) The board may institute proceedings in equity
23 to enjoin any person or business entity from engaging in any
24 unlawful act enumerated in this chapter. Such proceedings
25 shall be brought in the name of this state by the board in the

1 circuit court of the city or county in which the unlawful act
2 occurred or in which the defendant resides.

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

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

15 "(h) In addition to or in lieu of the criminal
16 penalties and administrative sanctions provided in this
17 chapter, the board may issue an order to any person, firm, or
18 corporation engaged in any activity, conduct, or practice
19 constituting a violation of this chapter to show cause why an
20 order should not be issued directing the person, firm, or
21 corporation to cease and desist from the activity, conduct,
22 practice, or the performance of any work being done then or
23 about to be commenced. If the person, firm, or corporation
24 files a written request for a hearing before the board within
25 14 days after receipt of the order, the board, not less than

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

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

9 "§34-1A-10.

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

1 Section 2. 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB52

Senate 18-APR-13

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 07-MAY-13

By: Senator Whatley