

CHAPTER 1084

H.B. No. 3433

1 AN ACT

2 relating to the regulation of certain private security companies
3 and occupations; creating an offense.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1702.002(1-a), Occupations Code, is
6 amended to read as follows:

7 (1-a) For purposes of Subdivision (1), the term "alarm
8 system" does not include a telephone entry system, an operator for
9 opening or closing a residential or commercial gate or door, or an
10 accessory used only to activate a gate or door, if the system,
11 operator, or accessory is not monitored by security personnel or a
12 security service and does not send a signal to which law enforcement
13 or emergency services respond [~~connected to a computer or data~~
14 ~~processor that records or archives the voice, visual image, or~~
15 ~~identifying information of the user~~].

16 SECTION 2. Section 1702.105, Occupations Code, is amended
17 to read as follows:

18 Sec. 1702.105. ALARM SYSTEMS COMPANY. (a) A person acts as
19 an alarm systems company for the purposes of this chapter if the
20 person sells, installs, services, monitors, or responds to an alarm
21 system or detection device.

22 (b) An alarm systems company may sell, install, maintain, or
23 service, or offer to sell, install, maintain, or service, an
24 electronic access control device or a mechanical security device

1 that is capable of activation through a wireless signal. An alarm
2 systems company may not rekey an electronic access control device
3 or mechanical security device that can be activated by a key. This
4 subsection does not apply to a mechanical security device or
5 electronic access control device installed in a motor vehicle.

6 SECTION 3. Section 1702.110, Occupations Code, is amended
7 by amending Subsection (a) and adding Subsection (c) to read as
8 follows:

9 (a) An application for a license under this chapter must be
10 in the form prescribed by the board and include:

11 (1) the full name and business address of the
12 applicant;

13 (2) the name under which the applicant intends to do
14 business;

15 (3) a statement as to the general nature of the
16 business in which the applicant intends to engage;

17 (4) a statement as to the classification for which the
18 applicant requests qualification;

19 (5) if the applicant is an entity other than an
20 individual, the full name and residence address of each partner,
21 officer who oversees the security-related aspects of the business,
22 and director of the applicant, and of the applicant's manager;

23 (6) if the applicant is an individual, the [~~two~~
24 ~~classifiable sets of~~] fingerprints of the applicant or, if the
25 applicant is an entity other than an individual, of each officer who
26 oversees the security-related aspects of the business and of each
27 partner or shareholder who owns at least a 25 percent interest in

1 the applicant, provided in the manner prescribed by the board;

2 (7) a verified statement of the applicant's experience
3 qualifications in the particular classification in which the
4 applicant is applying;

5 (8) a report from the department stating the
6 applicant's record of any convictions for a Class B misdemeanor or
7 equivalent offense or a greater offense;

8 (9) the social security number of the individual
9 making the application; and

10 (10) other information, evidence, statements, or
11 documents required by the board.

12 (c) The department may return an application as incomplete
13 if the applicant submits payment of a fee that is returned for
14 insufficient funds and the applicant has received notice and an
15 opportunity to provide payment in full.

16 SECTION 4. Section 1702.113(a), Occupations Code, is
17 amended to read as follows:

18 (a) An applicant for a license, certificate of
19 registration, endorsement, or security officer commission or the
20 applicant's manager must be at least 18 years of age and must not:

21 (1) at the time of application be charged under an
22 information or indictment with the commission of a Class A or Class
23 B misdemeanor or felony offense determined to be disqualifying by
24 board rule [~~under an information or indictment~~];

25 (2) have been found by a court to be incompetent by
26 reason of a mental defect or disease and not have been restored to
27 competency;

1 (3) have been dishonorably discharged from the United
2 States armed services, discharged from the United States armed
3 services under other conditions determined by the board to be
4 prohibitive, or dismissed from the United States armed services if
5 a commissioned officer in the United States armed services; or

6 (4) be required to register in this or any other state
7 as a sex offender, unless the applicant is approved by the board
8 under Section 1702.3615.

9 SECTION 5. Section 1702.121(b), Occupations Code, is
10 amended to read as follows:

11 (b) A manager shall ~~[be]~~ immediately cease all managerial
12 actions ~~[terminated]~~ on the effective date of any summary action
13 taken against the manager. Any period of temporary operation
14 authorized under this section or Section 1702.122 begins ~~[starts]~~
15 on the effective date of the summary action ~~[termination]~~.

16 SECTION 6. Section 1702.124, Occupations Code, is amended
17 by adding Subsection (f) to read as follows:

18 (f) In addition to the requirements of this section, an
19 applicant or license holder shall provide and maintain a
20 certificate of insurance or other documentary evidence of insurance
21 sufficient to cover all of the business activities of the applicant
22 or license holder related to private security.

23 SECTION 7. Section 1702.223(b), Occupations Code, is
24 amended to read as follows:

25 (b) An alarm systems installer may sell, install, maintain,
26 ~~[or]~~ repair, or service an electronic access control device or a
27 mechanical security device that is capable of activation through a

1 wireless signal. An alarm systems installer may not rekey an
2 electronic access control device or mechanical security device that
3 can be activated by a key. This subsection does not apply to a
4 mechanical security device or electronic access control device
5 installed in a motor vehicle.

6 SECTION 8. Section 1702.282(a), Occupations Code, is
7 amended to read as follows:

8 (a) The board shall conduct a criminal history check,
9 including a check of any criminal history record information
10 maintained by the Federal Bureau of Investigation, in the manner
11 provided by Subchapter F, Chapter 411, Government Code, on each
12 applicant for a license, registration, security officer
13 commission, letter of approval, permit, endorsement, or
14 certification. As part of its criminal history check, the board
15 may request that the applicant provide certified copies of relevant
16 court documents or other records. The failure to provide the
17 requested records within a reasonable time as determined by the
18 board may result in the application being considered
19 incomplete. An applicant is not eligible for a license,
20 registration, commission, letter of approval, permit, endorsement,
21 or certification if the check reveals that the applicant has
22 committed an act that constitutes grounds for the denial of the
23 license, registration, commission, letter of approval, permit,
24 endorsement, or certification. Except as provided by Subsection
25 (d), each applicant shall submit at the time of [include in the]
26 application, including an application for the renewal of a license,
27 registration, commission, letter of approval, permit, endorsement,

1 or certification, [~~two complete sets of~~] fingerprints in the
2 manner [~~on forms~~] prescribed by the board accompanied by the fee set
3 by the board.

4 SECTION 9. Section 1702.288, Occupations Code, is amended
5 by adding Subsection (f) to read as follows:

6 (f) A license holder acting as an alarm systems company does
7 not have to provide the notice required under Subsection (d) if the
8 contact information, including the address and the telephone
9 numbers for the alarm systems company, has not changed.

10 SECTION 10. Subchapter L, Chapter 1702, Occupations Code,
11 is amended by adding Section 1702.289 to read as follows:

12 Sec. 1702.289. INSPECTIONS. (a) An employee or agent of the
13 department or board, as applicable, who enters the place of
14 business of a person regulated under this chapter for the purpose of
15 conducting an inspection or audit must:

16 (1) notify the manager or owner of the business of the
17 presence of the person conducting the inspection or audit; and

18 (2) present the manager or owner of the business with
19 credentials that identify the person conducting the inspection or
20 audit as an employee or agent of the department or board.

21 (b) This section does not prohibit the department or board
22 from conducting an undercover investigation or covert audit in
23 order to determine compliance with this chapter or a rule adopted
24 under this chapter.

25 SECTION 11. Section 1702.324(b), Occupations Code, is
26 amended to read as follows:

27 (b) This chapter does not apply to:

1 (1) a manufacturer or a manufacturer's authorized
2 distributor while selling equipment intended for resale;

3 (2) a person engaged exclusively in the business of
4 obtaining and providing information to:

5 (A) determine creditworthiness;

6 (B) collect debts; or

7 (C) ascertain the reliability of information
8 provided by an applicant for property, life, or disability
9 insurance or an indemnity or surety bond;

10 (3) a person engaged exclusively in the business of
11 repossessing property that is secured by a mortgage or other
12 security interest;

13 (4) a person who is engaged in the business of
14 psychological testing or other testing and interviewing services,
15 including services to determine attitudes, honesty, intelligence,
16 personality, and skills, for preemployment purposes;

17 (5) a person who:

18 (A) is engaged in obtaining information that is a
19 public record under Chapter 552, Government Code, regardless of
20 whether the person receives compensation;

21 (B) is not a full-time employee, as defined by
22 Section 61.001, Labor Code, of a person licensed under this
23 chapter; and

24 (C) does not perform any other act that requires
25 a license under this chapter;

26 (6) a licensed engineer practicing engineering or
27 directly supervising engineering practice under Chapter 1001,

1 including forensic analysis, burglar alarm system engineering, and
2 necessary data collection;

3 (7) an employee of a cattle association who inspects
4 livestock brands under the authority granted to the cattle
5 association by the Grain Inspection, Packers and Stockyards
6 Administration of the United States Department of Agriculture;

7 (8) a landman performing activities in the course and
8 scope of the landman's business;

9 (9) an attorney while engaged in the practice of law;

10 (10) a person who obtains a document for use in
11 litigation under an authorization or subpoena issued for a written
12 or oral deposition;

13 (11) an admitted insurer, insurance adjuster, agent,
14 or insurance broker licensed by the state, performing duties in
15 connection with insurance transacted by that person;

16 (12) a person who on the person's own property or on
17 property owned or managed by the person's employer:

18 (A) installs, changes, or repairs a mechanical
19 security device;

20 (B) repairs an electronic security device; or

21 (C) cuts or makes a key for a security device;

22 (13) security personnel, including security contract
23 personnel, working at a commercial nuclear power plant licensed by
24 the United States Nuclear Regulatory Commission;

25 (14) a person or firm licensed as an accountant or
26 accounting firm under Chapter 901, an owner of an accounting firm,
27 or an employee of an accountant or accounting firm while performing

1 services regulated under Chapter 901;

2 (15) a retailer, wholesaler, or other person who sells
3 mechanical security devices, including locks and deadbolts, but who
4 does not:

5 (A) service mechanical security devices for the
6 public outside of the person's premises; or

7 (B) claim to act as a locksmith;

8 (16) an employee while performing investigative
9 services that would otherwise be subject to this chapter for an
10 entity regulated by the:

11 (A) Texas Department of Insurance;

12 (B) Office of Thrift Supervision;

13 (C) Securities and Exchange Commission;

14 (D) Federal Deposit Insurance Corporation; or

15 (E) Financial Industry Regulatory Authority;

16 [~~or~~]

17 (17) a social worker who holds a license issued under
18 Chapter 505 who is engaged in the practice of social work;

19 (18) persons licensed under Chapter 1101, an
20 association thereof, their authorized agents, or a multiple listing
21 service, engaged in the business of selling, maintaining,
22 repairing, programming, or placing lockboxes used for accessing
23 real property; or

24 (19) an automobile club that holds a certificate of
25 authority under Chapter 722, Transportation Code, its
26 subcontractor, or a business that provides similar services, that
27 unlocks a vehicle at the request of the owner or operator of the

1 vehicle and that does not otherwise perform a locksmith service.

2 SECTION 12. Section 1702.361, Occupations Code, is amended
3 by amending Subsection (b) and adding Subsection (d) to read as
4 follows:

5 (b) The department shall take disciplinary action described
6 by Subsection (a) on proof:

7 (1) that the applicant, license holder, manager or
8 majority owner of a license holder, registrant, endorsement holder,
9 or commissioned security officer has:

10 (A) violated this chapter or a rule adopted under
11 this chapter;

12 (B) become ineligible for licensure,
13 registration, or endorsement under Section 1702.113, or a
14 commission under Section 1702.163, if applicable, other than an
15 action for which the department has taken summary action under
16 Section 1702.364;

17 (C) engaged in fraud, deceit, or
18 misrepresentation;

19 (D) made a material misstatement in an
20 application for or renewal of a license, registration, endorsement,
21 or commission;

22 (E) failed to pay in full an administrative
23 penalty assessed under Subchapter Q, for which the board has issued
24 a final order; [~~or~~]

25 (F) performed any service for which an
26 endorsement is required under this chapter and either:

27 (i) was not employed with a company

1 licensed under this chapter at the time the service was performed;

2 or

3 (ii) performed the service for a company
4 licensed under this chapter that was not listed on the individual's
5 registration without informing the board of the individual's
6 employment with the company within a reasonable period; or

7 (G) failed to qualify a new manager within the
8 time required by board rule following the termination of a manager;

9 or

10 (2) that the license holder of a registrant or
11 commissioned security officer has submitted to the department
12 sufficient evidence that the registrant or commissioned security
13 officer:

14 (A) engaged in fraud or deceit while employed by
15 the license holder; or

16 (B) committed theft while performing work as a
17 registrant or commissioned security officer.

18 (d) The department may revoke a license, certificate,
19 registration, endorsement, or commission if the person holding that
20 credential under this chapter submits payment of a fee or penalty
21 that is returned for insufficient funds and the person has received
22 notice and an opportunity to provide payment in full.

23 SECTION 13. Section 1702.364(a), Occupations Code, is
24 amended to read as follows:

25 (a) On receiving written notice from a law enforcement
26 agency that a person has been charged with or convicted of an
27 offense that would make the person ineligible for a license,

1 certificate of registration, endorsement, or security officer
2 commission under Section 1702.113 or 1702.163, or a rule adopted
3 under Section 1702.004(b), the department shall:

4 (1) summarily deny the person's application for a
5 license, registration, endorsement, or security officer
6 commission;

7 (2) in the event of pending charges, summarily suspend
8 the person's license, certificate of registration, endorsement, or
9 security officer commission; or

10 (3) in the event of a conviction, summarily revoke the
11 person's license, certificate of registration, endorsement, or
12 security officer commission.

13 SECTION 14. Subchapter P, Chapter 1702, Occupations Code,
14 is amended by adding Section 1702.3841 to read as follows:

15 Sec. 1702.3841. INSUFFICIENT INSURANCE COVERAGE; OFFENSE.

16 (a) A person commits an offense if the person is subject to Section
17 1702.124 and knowingly fails to provide and maintain a certificate
18 of insurance or other documentary evidence of insurance sufficient
19 to cover all of the business activities of the person related to
20 private security. A person is presumed to have acted knowingly for
21 purposes of this subsection if the person received reasonable
22 notice from the department and an opportunity to provide or
23 maintain the documentation required by Section 1702.124 and failed
24 to do so.

25 (b) An offense under this section is a Class A misdemeanor.

26 SECTION 15. Subchapter B, Chapter 1302, Occupations Code,
27 is amended by adding Section 1302.064 to read as follows:

1 Sec. 1302.064. TECHNOLOGY INTEGRATION. This chapter does
2 not apply to a person licensed under Chapter 1702 of this code or
3 Chapter 6002, Insurance Code, who sells, designs, or offers to sell
4 or design a product or technology, including a burglar alarm or fire
5 alarm, that is integrated with an air conditioning or refrigeration
6 system if the sale, design, or offer does not include the
7 installation of any part of an air conditioning or refrigeration
8 system by that person.

9 SECTION 16. Section 12.092(b), Health and Safety Code, is
10 amended to read as follows:

11 (b) The medical advisory board shall assist the Department
12 of Public Safety of the State of Texas in determining whether:

13 (1) an applicant for a driver's license or a license
14 holder is capable of safely operating a motor vehicle; or

15 (2) an applicant for or holder of a license to carry a
16 concealed handgun under the authority of Subchapter H, Chapter 411,
17 Government Code, or an applicant for or holder of a commission as a
18 security officer under Chapter 1702, Occupations Code, is capable
19 of exercising sound judgment with respect to the proper use and
20 storage of a handgun.

21 SECTION 17. Sections 1702.113(b) and (c), Occupations Code,
22 are repealed.

23 SECTION 18. (a) The changes in law made by this Act to
24 Chapter 1702, Occupations Code, apply only to an application for an
25 original or renewal license, registration, or endorsement
26 submitted to the Texas Private Security Board on or after January 1,
27 2014. An application submitted before January 1, 2014, is governed

1 by the law in effect on the date the application was submitted, and
2 the former law is continued in effect for that purpose.

3 (b) The Texas Private Security Board shall adopt rules to
4 implement the changes in law made by this Act not later than January
5 1, 2014.

6 SECTION 19. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2013.

David Dewhurst
President of the Senate

Joe Straus
Speaker of the House

I certify that H.B. No. 3433 was passed by the House on May 2, 2013, by the following vote: Yeas 145, Nays 2, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3433 on May 24, 2013, by the following vote: Yeas 131, Nays 13, 1 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 3433 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 31, Nays 0.

Patsy Spaw
Secretary of the Senate

APPROVED: 14 JUNE '13
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10PM O'CLOCK

JUN 14 2013

[Signature]
Secretary of State