

## CHAPTER 463

## H.B. No. 161

## AN ACT

relating to certain exceptions from the application of the Private Investigators and Private Security Agencies Act and to the definition of an alarm systems company for the purposes of that Act.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 2(5), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

(5) "Alarm systems company" means any person that sells, installs, services, monitors, or responds to burglar alarm signal devices, burglar alarms, television cameras, still cameras or any other electrical, mechanical, or electronic device used:

(A) to prevent or detect burglary, theft, shoplifting, pilferage, or other losses of that type;

(B) to prevent or detect intrusion; or

(C) primarily to detect or [and] summon aid for other emergencies.

SECTION 2. Section 3(a), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) This Act does not apply to:

(1) a person employed exclusively and regularly by one employer in connection with the affairs of an employer only and where there exists an employer-employee relationship; provided, however, any person who shall carry a firearm in the course of his employment shall be required to obtain a private security officer commission under the provisions of this Act;

(2) except as provided by Subsection (d) of this Section, an officer or employee of the United States of America, or of this State or political subdivision of either, while the employee or officer is engaged in the performance of official duties;

(3) a person who has full-time employment as a peace officer as defined by Article 2.12, Code of Criminal Procedure, who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, or watchman if such person is:

(A) employed in an employee-employer relationship; or

(B) employed on an individual contractual basis;

(C) not in the employ of another peace officer; and

(D) not a reserve peace officer;

(4) a person engaged exclusively in the business of obtaining and furnishing information for purposes of credit worthiness or collecting debts or ascertaining the financial responsibility of applicants for property insurance and for indemnity or surety bonds, with respect to persons, firms, and corporations;

(5) an attorney-at-law in performing his duties;

(6) admitted insurers, insurance adjusters, agents, and insurance brokers licensed by the State, performing duties in connection with insurance transacted by them;

(7) a person who engages exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(8) a locksmith who does not install or service detection devices, does not conduct investigations, and is not a security service contractor;

(9) a person who owns and installs burglar detection or alarm devices on his own property or, if he does not charge for the device or its installation, installs it for the protection of his personal property located on another's property, and does not install the devices as a normal business practice on the property of another;

(10) an employee of a cattle association who is engaged in inspection of brands of livestock under the authority granted to that cattle association by the Packers and Stockyards Division of the United States Department of Agriculture;

(11) the provisions of this Act shall not apply to common carriers by rail engaged in interstate commerce and regulated by state and federal authorities and transporting commodities essential to the national defense and to the general welfare and safety of the community;

(12) a registered professional *engineer* [~~engineers~~] practicing in accordance with the provisions of the Texas Engineering Practice Act that does not install or service detection devices, does not conduct investigations, and is not a security services contractor;

(13) a person whose sale of burglar alarm signal devices, burglary alarms, television cameras, still cameras, or other electrical, mechanical, or electronic devices used for preventing or detecting burglary, theft, shoplifting, pilferage, or other losses is exclusively over-the-counter or by mail order;

(14) a person who holds a license or other form of permission issued by an incorporated city or town to practice as an electrician and who installs fire or smoke detectors in no building other than a single family or multifamily residence;

(15) a person or organization in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device if:

(A) the person or organization is a party to a contract that provides that the installation will be performed under the direct supervision of and inspected and certified by a person or organization licensed to install and certify such an alarm or detection device and that the licensee assumes full responsibility for the installation of the alarm or detection device; and

(B) the person or organization does not service or maintain burglar alarms or detection devices;

(16) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(17) response to a burglar alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity;

(18) a person who, by education, experience, or background has specialized expertise or knowledge such as that which would qualify or tend to qualify such person as an expert witness, authorized to render opinions in proceedings conducted in a court, administrative agency, or governing body of this state or of the United States, in accordance with applicable rules and regulations and who does not perform any other service for which a license is required by provisions of this Act;

(19) an officer, employee, or agent of a common carrier, as defined by Section 153(h), Communications Act of 1934 (47 U.S.C.A. Sec. 151 et seq.), while protecting the carrier or a user of the carrier's long-distance services from a fraudulent, unlawful, or abusive use of those long-distance services;

(20) a person who sells or installs automobile burglar alarm devices;

(21) a manufacturer, or a manufacturer's authorized distributor, who sells to the holder of a license under this Act equipment used in the operations for which the holder is required to be licensed;

(22) a person employed as a noncommissioned security officer by a political subdivision of this state;

(23) a person whose activities are regulated under Article 5.43-2, Insurance Code, except to the extent that those activities are specifically regulated under this Act;

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

(25) a hospital or a wholly owned subsidiary or affiliate of a hospital that provides medical alert services for persons who are sick or disabled, if the hospital, subsidiary, or affiliate is licensed under Chapter 241, Health and Safety Code, and the hospital does not perform any other service that requires a license under this Act;

(26) a charitable, nonprofit organization that provides medical alert services for persons who are sick or disabled, if the organization:

(A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986;

(B) has its monitoring services provided by a licensed person or hospital or a wholly owned subsidiary or affiliate of a hospital licensed under Chapter 241, Health and Safety Code; and

(C) does not perform any other service that requires a license under his Act; [or]

(27) a person engaged in the business of electronic monitoring of a person as a condition of that person's probation, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this Act;

(28) a nonprofit business or civic organization that:

(A) employs one or more peace officers meeting the qualifications of Subdivision (3) of this subsection as patrolmen, guards, or watchmen;

(B) provides the services of these peace officers only to:

(i) its members; or

(ii) if the organization does not have members, the members of the communities served by the organization as described in its articles of incorporation or other organizational documents;

(C) devotes the net receipts from all charges for the services exclusively to the cost of providing the services or to the costs of other services for the enhancement of the security or safety of:

(i) its members; or

(ii) if the organization does not have members, the members of the communities served by the organization as described in its articles of incorporation or other organizational documents; and

(D) does not perform any other service that requires a license under this Act;

(29) a charitable, nonprofit organization that maintains a system of records to aid in the location of missing children if the organization:

(A) is exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986, and its subsequent amendments;

(B) exclusively provides services related to locating missing children; and

(C) does not perform any other service that requires a license under this Act; or

(30) a person engaged in the business of psychological testing or other testing and interviewing services (to include but not limited to attitudes, honesty, intelligence, personality, and skills) for preemployment purposes, if the person does not perform any other service that requires a license under this Act.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be

suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 23, 1993, by a non-record vote; the House concurred in Senate amendments on May 24, 1993, by a non-record vote; passed by the Senate, with amendments, on May 14, 1993: Yeas 29, Nays 0.

Approved June 9, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.