

CHAPTER 870

H.B. No. 1808

AN ACT

relating to the regulation of certain persons and organizations under the Private Investigators and Private Security Agencies 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 a 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) registered professional engineers practicing in accordance with the provisions of the Texas Engineering Practice Act;

(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 this 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; or

(28) 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.

SECTION 3. Section 17, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended as follows:

Sec. 17. FEES. (a) If the General Appropriations Act does not specify the amount of the fee, the board by rule shall establish reasonable and necessary fees that produce funds sufficient for the administration of this Act but that do not produce unnecessary fund balances and do not exceed the following amounts:

Class A license (original and renewal)	\$225
Class B license (original and renewal)	225
Class C license (original and renewal)	340
Reinstate suspended license	150
Assignment of license	150
Change name of license	75
Delinquency fee	
Branch office certificate and renewal	150
Registration fee for private investigators, managers, branch office managers, and alarm systems installers (original and renewal)	20
Registration fee for noncommissioned security officer	35
Registration fee for security sales person	20
Registration fee for alarm systems monitor	20
Registration fee for dog trainer	20
Registration fee for owner, officer, partner, or shareholder of a licensee	20
Registration fee for security consultants	55
Security officer commission fee (original and renewal)	35
School instructor fee (original and renewal)	100
School approval fee (original and renewal)	250
Letter of authority fee for private businesses and political subdivisions (original and renewal)	225
FBI fingerprint check	25
Duplicate pocket card	10
Employee information update fee	15
Burglar alarm sellers renewal fee	25

(b) The financial transactions of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(c) In addition to other fees established under this Act, the board may charge a fee each time the board requires a person regulated under this Act to resubmit a set of fingerprints for processing by the board during the application process for a license, registration, or commission issued under this Act. The board shall set the fee in an amount that is reasonable and necessary to cover its administrative expenses related to processing the set of fingerprints.

(d) A Class A, Class B, or Class C license is valid for one year from the date of issuance. Registration as a private investigator, manager, branch office manager, alarm systems installer, security consultant, security sales person, alarm systems monitor, or dog trainer is valid for two years from the date of registration, *except that an initial registration as an alarm systems installer or security sales person is valid for one year from the date of registration if the board requires registrants to be trained or tested pursuant to Section 32(f) of this Act.* Registration as an owner, officer, partner, or shareholder of a licensee is valid for two years from the date of registration. Registration as a noncommissioned security officer is valid for four years from the date of registration. A letter of authority, or a school approval or school instructor approval letter issued by the board, is valid for one year from the date of issuance. Other licenses or registrations issued under this Act are valid for the period specified by this Act or by board rule.

SECTION 4. Section 32, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended as follows:

Sec. 32. REGISTRATION. (a) An individual who is employed as a private investigator, manager, branch office manager, alarm systems installer, noncommissioned security officer,

private security consultant, security sales person, alarm systems monitor, or dog trainer, or who is an owner, officer, partner, or shareholder of a licensee, must register with the board as provided by board rule.

(b) The minimum age of a person registered under this section shall be 18 years of age.

(c) An employee of a licensee who is employed in a capacity that is not subject to mandatory registration under this section may register with the board on a voluntary basis.

(d) The board may promulgate by rule any additional qualifications of an individual registered under this section.

(e) A person who hires a noncommissioned security officer must conduct a pre-employment check as prescribed by board rule.

*(f)(1) The board may require that, except as provided in Subdivision (3), a person who is employed as an alarm systems installer or security sales person must hold a current certification by a training program approved by the board in order to renew his initial registration. The board may only approve nationally recognized training programs that consist of at least 20 hours of classroom study in the areas of work allowed by the registration. To be approved, a training program must offer at least two certification programs each year, sufficient to complete the requirements of this paragraph, within 100 miles of each county in the state that has a population in excess of 500,000 people according to the last decennial census.*

*(2) The board may require that persons that have completed a training program pursuant to Subdivision (1) must successfully complete an examination given by the board or by a person or organization approved by the board. It shall be permissible for the board to approve examinations in conjunction with training programs approved pursuant to Subdivision (1). The examination shall demonstrate the employee's qualifications to perform the duties allowed by the employee's registration.*

*(3) A person that holds a valid registration on September 30, 1993, shall not have to comply with the provisions of Subdivisions (1) and (2), if training and testing is required by the board, for so long as he maintains his registration with his current licensee.*

*(g) If the board requires certification or examination under Subsection (f) of this section, the board shall implement rules to require persons who are employed as alarm systems installers or security sales persons to obtain continuing education credits related to the line of work for which they are licensed in order to renew each registration subsequent to the renewal of their initial registration. If the board requires such continuing education, the executive director shall approve classes offered by nationally recognized organizations, and participants in such classes shall qualify according to rules adopted by the board.*

SECTION 5. 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 30, 1993: Yeas 128, Nays 0, 2 present, not voting; the House concurred in Senate amendments on May 28, 1993, by a non-record vote; passed by the Senate, with amendments, on May 26, 1993: Yeas 30, Nays 0.

Approved June 18, 1993.

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