

By: Senator(s) White (29th)

To: Business and
Financial
Institutions

SENATE BILL NO. 2649

1 AN ACT TO PROVIDE FOR THE LICENSURE AND REGULATION OF BURGLAR
2 OR INTRUSION ALARM SYSTEM INSTALLERS; TO DEFINE CERTAIN TERMS USED
3 IN THE ACT; TO CREATE THE MISSISSIPPI ELECTRONIC SECURITY BOARD OF
4 LICENSURE AND PROVIDE FOR ITS POWERS AND DUTIES; TO PROVIDE FOR AN
5 ANNUAL LICENSE FEE; TO EXCLUDE CERTAIN PERSONS FROM THE
6 APPLICATION OF THE ACT; TO PROVIDE FOR CIVIL AND CRIMINAL
7 PENALTIES FOR VIOLATIONS OF THE ACT; TO CREATE A SPECIAL FUND IN
8 THE STATE TREASURY, TO BE KNOWN AS THE "MISSISSIPPI ELECTRONIC
9 SECURITY BOARD OF LICENSURE FUND," FOR THE DEPOSIT OF FUNDS
10 COLLECTED PURSUANT TO THE ACT; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. For the purpose of regulating burglar or
13 intrusion alarm system installers, the following terms shall have
14 the following meanings unless the context clearly indicates
15 otherwise:

16 (a) "Board" means the Mississippi Electronic Security
17 Board of Licensure.

18 (b) "Burglar alarm" means a security system comprised
19 of an interconnected series of alarm devices or components,
20 including systems interconnected with radio frequency signals,
21 which emits an audible, visual or electronic signal indicating an
22 alarm condition and providing a warning of intrusion which is sent
23 to a central station and requires a response by an emergency team
24 such as police or fire personnel.

25 (c) "Burglar alarm system installer" means a person
26 that offers to undertake, represents itself as being able to
27 undertake, or does undertake the installation or service, or both,
28 of burglar alarm systems for the public for any type of
29 compensation.

30 (d) "Installation" means the initial placement of

31 equipment or the extension, modification or alteration of
32 equipment after initial placement.

33 (e) "Service" means the necessary repair in order to
34 return the system to operational condition.

35 (f) "Intrusion alarm system" means an alarm system for
36 signaling the entry or attempted entry of a person or an object
37 into the area or volume protected by the system.

38 (g) "Alarm business" means the business, by an
39 individual, partnership, corporation or other entity of selling,
40 leasing, maintaining, servicing, repairing, altering, replacing,
41 moving, installing or monitoring an alarm system at an alarm site.

42 (h) "Alarm control" means the central controlling
43 device of an electronic alarm system which monitors sensing
44 devices and activates signaling devices in the event of an alarm.

45 (i) "Alarm system" means an assembly of equipment and
46 devices designed and arranged to signal the presence of an alarm
47 condition requiring urgent attention, such as unauthorized entry,
48 fire, temperature rise, etc. The system may be local, police
49 connection, central station or proprietary.

50 (j) "Certified alarm technician" means a graduate of the
51 Certified Alarm Technician (Level 1) program sponsored by the
52 National Burglar and Fire Alarm Association.

53 SECTION 2. (1) The Mississippi Electronic Security Board of
54 Licensure is hereby created.

55 (2) The board, which shall reflect the racial, gender,
56 geographic, urban and rural, and economic diversity of the state,
57 shall consist of the following members to be appointed by the
58 Governor:

59 (a) Two (2) members representing the burglar alarm
60 industry shall be selected from three (3) nominees submitted by
61 the Mississippi Alarm Association.

62 (b) Two (2) members of the Mississippi Department of
63 Public Safety (Mississippi Highway Patrol) selected from three (3)

64 nominees submitted by that association.

65 (c) A person who is a representative of the consumers
66 of the state to be appointed by the Lieutenant Governor.

67 (3) (a) The terms of the board members shall be four (4)
68 years.

69 (b) Any vacancy occurring other than by expiration of
70 terms shall be filled for the remainder of the unexpired term by
71 appointment of the Governor, subject to the nominating process
72 specified in subsection (2).

73 (c) No member shall serve more than two (2) successive
74 four-year terms.

75 (d) A member shall serve until a successor is appointed
76 and assumes office.

77 (e) Members shall be paid out of the funds of the board
78 the same per diem as prescribed by law for state employees for
79 each day of attendance of board business.

80 (f) Meetings shall be held at least four (4) times per
81 year. Special meetings shall be held at the call of the chair or
82 by a majority of the members of the board.

83 (g) (i) The board may adopt rules of proceedings.

84 (ii) A majority of the board constitutes a quorum.

85 (iii) The board shall elect a chair on an annual
86 basis.

87 SECTION 3. (1) The board shall have all of the following
88 powers:

89 (a) License and regulate business entities engaged in
90 the business of installing and servicing burglar or intrusion
91 alarm systems.

92 (b) Through regulations, establish the qualifications
93 for licensure to ensure competency and integrity to engage in
94 these businesses.

95 (c) Examine, or cause to be examined, the
96 qualifications of each applicant for licensure including the

97 preparation, administration and grading of examinations, and
98 requiring the applicant to supply a board approved background
99 investigation.

100 (d) License qualified applicants regulated by the
101 board.

102 (e) Revoke, suspend or fail to renew a license for just
103 cause as enumerated in the regulations of the board.

104 (f) Levy and collect reasonable fees for licensure,
105 including, but not limited to, the application process and testing
106 of applicants, and renewal, suspension and reissuance of licenses,
107 and costs of necessary hearings, that are sufficient to cover all
108 expenses for the administration and operation of the board.

109 (g) Promulgate rules and regulations necessary to
110 perform its duties, to ensure continued competency, to prevent
111 deceptive, misleading or criminal practices by its licensees, and
112 to effectively administer the regulatory system administered by
113 the board.

114 (h) Register or by other means monitor employees of a
115 licensee to ensure such employees do not impair the ability of the
116 licensee to satisfy the requirements of this act.

117 (i) Receive complaints concerning the conduct of any
118 person or business entity whose activities are regulated by the
119 board and to take appropriate disciplinary action if warranted.

120 (j) Ensure that periodic inspections are conducted
121 relating to the operations of licensees to ensure competency and
122 lawful compliance.

123 (k) Require the purchase of comprehensive liability
124 insurance related to business activities in the amount of at least
125 Two Hundred Fifty Thousand Dollars (\$250,000.00).

126 (l) Require licensees and employees of licensees to
127 have available a photo identification card at all times when
128 providing licensed services, and to surrender the card to employer
129 at termination of employment.

130 (m) Promulgate canons of ethics under which the
131 regulated professional activities of persons and business entities
132 shall be conducted.

133 (n) Employ or contract for necessary personnel,
134 including a director, and provide necessary offices, supplies and
135 equipment to fulfill the requirements of this act.

136 (o) Delegate its powers and duties by resolution to a
137 named designee.

138 (p) Enter into contracts and expend funds of the board
139 to fulfill the requirements of this act.

140 (q) Borrow money for the initial start-up operation of
141 the board until sufficient receipts are paid into the special
142 revenue trust fund specified in Section 9 of this act.

143 (2) The board shall require all installers and service
144 technicians to pass the National Training School Level 1 within
145 one (1) year of employment.

146 SECTION 4. No person who is a burglar alarm systems company
147 shall be licensed until he or she has made a satisfactory showing
148 to the authority that he or she has satisfied the qualifications
149 prescribed in this act, by presenting proof of passing Level 1 of
150 the National Training School of the National Burglar and Fire
151 Alarm Association.

152 SECTION 5. (1) The board shall issue licenses authorized by
153 this act to all qualified individuals in accordance with rules or
154 regulations established by the board.

155 (2) The annual license fee as set by the board shall not
156 exceed Fifty Dollars (\$50.00) for an individual and Two Hundred
157 Dollars (\$200.00) for a business entity. After the passage of the
158 law, there shall be an application processing fee not to exceed
159 Two Hundred Fifty Dollars (\$250.00) per business.

160 (3) A business license shall license all employees during
161 their time of employment including sales, service and installation
162 during their time of employment with the business.

163 (4) The license shall not be transferred or assigned and is
164 valid only with respect to the person to whom it is issued.

165 (5) (a) No license shall be granted if the applicant has
166 had any prior business license revoked for fraud,
167 misrepresentation or any other act that would constitute a
168 violation of this act.

169 (b) The board may consult with appropriate state or
170 federal law enforcement authorities to verify whether an applicant
171 has a criminal record prior to granting any license and, as an aid
172 to this duty, each applicant shall be required to provide his or
173 her fingerprints and complete an affidavit of his or her criminal
174 record, if any, as a part of the application. The board may
175 periodically consult with state and federal law enforcement
176 officials to determine whether current licensees have new criminal
177 convictions.

178 (6) Any license granted pursuant to this act shall expire
179 December 31 of each year unless it is renewed pursuant to
180 regulations established by the board or unless it is suspended or
181 revoked.

182 (7) An affirmative vote of a majority of board members shall
183 be required before any action to suspend or revoke a license, to
184 impose a sanction on a licensee, or to levy a monetary penalty. A
185 board member shall disqualify himself or herself and withdraw from
186 any case in which he or she cannot accord fair and impartial
187 consideration.

188 (8) A nonresident company must be licensed in the State of
189 Mississippi by meeting the following requirements:

190 (a) Conforming to the provisions of this act and the
191 regulation of this board; and

192 (b) Must have qualifying agent from their company
193 residing in the State of Mississippi and meeting the above
194 requirements or holding a valid alarm systems contractor's license
195 in another state with which reciprocity has been established by

196 the board;

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

199 (10) A notice shall be displayed prominently in the place of
200 business of each licensee regulated pursuant to this act
201 containing the name, mailing address and telephone number of the
202 board, and a statement informing consumers that complaints against
203 licensees may be directed to the board.

204 (11) The license number of a licensee shall be displayed in
205 all advertising.

206 (12) The board shall prepare information of consumer
207 interest describing the regulatory functions and describing the
208 procedures of the board by which consumer complaints shall be
209 filed with and resolved by the board. The board shall make the
210 information available to the general public and appropriate state
211 agencies. The board shall provide upon request a listing of all
212 licensees. The board may collect a fee for the cost of
213 duplicating and mailing materials.

214 (13) Each written contract for services in the state of a
215 licensee shall contain the name, mailing address and telephone
216 number of the board, and a statement informing consumers that
217 complaints against licensees may be directed to the board.

218 (14) Notice of the issuance, revocation, reinstatement or
219 expiration of every license issued by the board shall be furnished
220 to the sheriff of the county and the chief of police, as
221 appropriate, and the inspection department of the city where the
222 principal place of business of a licensee is located.

223 SECTION 6. The licensing and regulatory provision of this
224 act shall not apply to any of the following persons, entities or
225 activities:

226 (a) A person or business entity which sells burglar
227 alarm systems at the premises of the customer and does not
228 install, service or respond to the burglar alarm system at the

229 premises of the customer;

230 (b) The installation, servicing or responding to an
231 alarm device which is installed in a motor vehicle, aircraft or
232 boat, that is a non-monitored account;

233 (c) A locksmith who does not install or service burglar
234 alarm systems;

235 (d) A person or business entity whose sale of a burglar
236 alarm system is exclusively over-the-counter or by mail order of
237 non-monitored systems;

238 (e) A person or business entity in the business of
239 building construction that installs electrical wiring and devices
240 that may include in part the installation of a burglar alarm
241 system if both of the following apply:

242 (i) The person or business entity who is a party
243 to a contract which provides for the installation shall be
244 performed under the direct supervision of, inspected, and
245 certified by a person or business entity licensed to install a
246 burglar alarm system and that the licensee assumes full
247 responsibility for the installation and service of the burglar
248 alarm system; and

249 (ii) The person or business entity does not
250 service or maintain the burglar alarm system;

251 (f) The response to a burglar alarm system by a law
252 enforcement agency or by a law enforcement officer acting in an
253 official capacity;

254 (g) A business that engages in the installation or
255 operation of telecommunications facilities or equipment which are
256 used for the transport of any signal, data or information outside
257 the continuous premises on which any burglar alarm system is
258 installed or maintained;

259 (h) Any business entity, business owner, or person, or
260 the agent or employee of such business entity, business owner, or
261 person engaging in the routine visual inspection or manufacturer's

262 or installer's recommended testing of a burglar alarm system
263 subject to this act owned by the business entity, business owner,
264 or person and installed on property under the control of the
265 business entity, business owner or person;

266 (i) Any business entity, or person, or those engaged in
267 property management, or agent or subcontractors or employees
268 thereof, who, in the normal course of business, engage in the
269 routine inspection, service or replacement of such burglar alarm
270 systems, or subject to this act, on or in property owned or under
271 the control of such business entity, or person, or property
272 manager;

273 (j) Consulting engineers who design, develop, modify or
274 offer other services within the scope of their profession
275 regarding burglar alarm systems; and

276 (k) An electrician who is licensed by the state as an
277 electrical contractor or an electrician who is licensed by the
278 city or county as a master electrician.

279 SECTION 7. (1) Effective January 1, 2000, it shall be
280 unlawful for any person or business entity to engage in a business
281 regulated by this act in this state without a current valid
282 license or in violation of this act and applicable rules and
283 regulations of the board.

284 (2) Effective January 1, 2000, it shall be unlawful for a
285 person or business entity not licensed under this act to advertise
286 or hold out to the public that he or she is a licensee of the
287 board.

288 (3) Any person or business entity who violates this act or
289 any order, rule or regulation of the board shall be guilty of a
290 misdemeanor.

291 (4) Effective January 1, 2000, it shall also constitute a
292 misdemeanor to willfully or intentionally do any of the following:

293 (a) Obliterate the serial number on a burglar alarm
294 system for the purpose of falsifying service reports;

295 (b) Knowingly and deliberately install or service a
296 burglar alarm system improperly;

297 (c) While holding a license, allow another person or
298 business entity to use the license or license number;

299 (d) Use, or permit the use of, any license by a person
300 or business entity other than the one to whom the license is
301 issued;

302 (e) Use any credential, method, means or practice to
303 impersonate a representative of the board;

304 (f) Make use of any designation provided by statute or
305 regulation to denote a standard of professional or occupational
306 competence without being duly licensed;

307 (g) Make use of any title, words, letters or
308 abbreviations which may reasonably be confused with a designation
309 provided by statute or regulation to denote a standard of
310 professional or occupational competence without being duly
311 licensed;

312 (h) Provide material misrepresenting facts in an
313 application for licensure or in other communications with the
314 board; or

315 (i) Refuse to furnish the board information or records
316 required or requested pursuant to statute or regulation.

317 (5) The board may institute proceedings in equity to enjoin
318 any person or business entity from engaging in any unlawful act
319 enumerated in this act. Such proceedings shall be brought in the
320 name of this state by the board in the circuit court of the city
321 or county in which the unlawful act occurred or in which the
322 defendant resides.

323 (6) In addition to any other disciplinary action taken by
324 the board, any person or business entity licensed by the board who
325 violates this act or rule or regulation promulgated pursuant to
326 this act shall be subject to a civil penalty. If the board
327 determines that the person is in fact guilty of the violation, the

328 board shall determine the amount of the civil penalty for the
329 violation, which shall not exceed One Thousand Dollars (\$1,000.00)
330 for each violation. The board may file a civil action to collect
331 the penalty.

332 (7) The board is entitled to costs and reasonable attorney
333 fees in any civil action in which it prevails.

334 SECTION 8. (1) This act and the rules and regulations
335 promulgated pursuant to this act shall have uniform force and
336 effect throughout the state. A municipality or county shall not
337 enact an order, ordinance, rule or regulation requiring a person
338 or business entity to obtain a certification from the municipality
339 or county, other than proof of a valid license issued by the
340 board.

341 (2) This act shall not affect any general statute or
342 municipal ordinance requiring a business license for a burglar
343 alarm system installer.

344 (3) Nothing in this act limits the power of a municipality,
345 a county or the state to require the submission and approval of
346 plans and specifications or to regulate the quality and character
347 of work performed by contractors through a system of licenses,
348 fees and inspections otherwise authorized by law for the
349 protection of the public health and safety.

350 SECTION 9. A separate special fund is created in the State
351 Treasury to be known as the Mississippi Electronic Security Board
352 of Licensure Fund. All receipts collected by the board under this
353 act are to be deposited into this fund and shall be used only to
354 carry out the provisions of this act. The receipts shall be
355 disbursed only by warrant of the Executive Director of the
356 Department of Finance and Administration upon the State Treasury,
357 upon itemized vouchers approved by the chair of the board. No
358 funds shall be withdrawn or expended except as budgeted, and only
359 in amounts as stipulated in the general appropriations bill or
360 other appropriations bills.

361 SECTION 10. The provisions of this act are severable. If
362 any part of this act is declared invalid or unconstitutional, that
363 declaration shall not affect the remaining part.

364 SECTION 11. This act shall take effect and be in force from
365 and after July 1, 1999.