

By: Dedeaux

To: Judiciary B

HOUSE BILL NO. 439

1 AN ACT TO REGULATE THE INSTALLATION AND SERVICE OF BURGLAR
 2 ALARM SYSTEM; TO DEFINE CERTAIN TERMS; TO CREATE THE MISSISSIPPI
 3 ELECTRONIC SECURITY BOARD OF LICENSURE AND PROVIDE FOR IT
 4 MEMBERSHIP AND ADMINISTRATION; TO PROVIDE THE POWERS OF THE BOARD;
 5 TO PROVIDE LICENSING REQUIREMENTS; TO PROVIDE EXEMPTIONS FROM THIS
 6 ACT; TO PROVIDE FOR VIOLATIONS OF THIS ACT; TO PROVIDE FOR
 7 UNIFORMITY; TO CREATE A SPECIAL FUND AND PROVIDE FOR ITS
 8 ADMINISTRATION; AND FOR RELATED PURPOSES.

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

10 SECTION 1. The following words and phrases shall have the
 11 meanings ascribed herein unless the context clearly indicates
 12 otherwise:

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

20 (b) "Burglar alarm system installer" means a person or
 21 business entity that offers to undertake, represents itself as
 22 being able to undertake, or does undertake the installation or
 23 service, or both, of burglar alarm systems for the public for any
 24 type of compensation.

25 (c) "Installation" means the initial placement of
26 equipment or the extension, modification or alteration of
27 equipment after initial placement.

28 (d) "Service" means the necessary repair in order to
29 return the system to operational condition.

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

32 (2) The board, which shall reflect the racial, gender,
33 geographic, urban and rural and economic diversity of the state,
34 shall consist of the following members to be appointed by the
35 governor:

36 (a) One (1) member representing the burglar alarm
37 system industry selected from three (3) nominees submitted by the
38 Mississippi Alarm Association.

39 (b) One (1) member of the Mississippi Department of
40 Public Safety (Mississippi Highway Patrol) selected from three (3)
41 nominees submitted by that association.

42 (c) A person who is a representative of the consumers
43 of the state to be appointed by the Speaker of the House of
44 Representatives.

45 (3) (a) The terms of the board members shall be four (4)
46 years

47 (b) Of the members first appointed, two (2) shall be
48 appointed to four-year terms, two (2) for three-year terms, and
49 one (1) for a two-year term.

50 (c) Any vacancy occurring other than by expiration of
51 terms shall be filled for the remainder of the unexpired term by
52 appointment by the governor subject to the nominating process
53 specified in subsection (2).

54 (d) No member shall serve more than two (2) successive
55 four-year terms.

56 (e) A member shall serve until a successor is appointed
57 and assumes office.

58 (4) Members shall be paid per diem out of the funds of the
59 board as provided in Section 25-3-69 for each day of attendance of
60 board business.

61 (5) Meetings shall be held at least four (4) times per year.
62 Special meetings shall be held at the call of the chair or by a
63 majority of the members of the board.

64 (6) (a) The board may adopt rules of proceedings.

65 (b) A majority of the board constitutes a quorum.

66 (c) The board shall elect a chair on an annual basis.

67 SECTION 3. The board shall have all of the following powers:

68 (a) To license and regulate persons and business
69 entities engaged in business as a burglar alarm installer.

70 (b) To establish through regulations, the
71 qualifications for licensure to ensure competency and integrity to
72 engage in these businesses.

73 (c) to examine, or cause to be examined, the
74 qualifications of each applicant for licensure including the
75 preparation, administration and grading of examinations and
76 requiring the applicant to supply a board approved background
77 investigation.

78 (d) To license qualified applicants regulated by the
79 board.

80 (e) To revoke, suspend, or fail to renew a license for
81 just cause as enumerated in regulations of the board.

82 (f) To levy and collect reasonable fees for licensure,
83 including, but not limited to, the application process and testing

84 of applicants, and renewal, suspension and reissuance of licenses,
85 and costs of necessary hearing, that are sufficient to cover all
86 expenses for the administration and operation of the board.

87 (g) To promulgate rules and regulations necessary to
88 perform its duties, to ensure continued competency, to prevent
89 deceptive, misleading, or criminal practices by its licensees, and
90 to effectively administer the regulatory system administered by
91 the board.

92 (h) To register or by other means monitor employees of
93 a licensee to ensure such employees do not impair the ability of
94 the licensee to satisfy the requirements of this act.

95 (i) To receive complaints concerning the conduct of any
96 person or business entity whose activities are regulated by the
97 board and to take appropriate disciplinary action if warranted.

98 (j) To ensure that periodic inspections are conducted
99 relating to the operations of licensees to ensure competency and
100 lawful compliance.

101 (k) To require the purchase of comprehensive liability
102 insurance related to business activities in a minimum specified
103 amount.

104 (l) To require licensees and employees of licensees
105 have available a photo identification card at all times when
106 providing licensed services, and must be surrendered to employer
107 at termination of employment.

108 (m) To promulgate canons of ethics under which the
109 regulated professional activities of persons and business entities
110 shall be conducted.

111 (n) To employ or contract for necessary personnel,

112 including a director and provide necessary offices, supplies and
113 equipment to fulfill the requirements of this act.

114 (o) To delegate its powers and duties by resolution to
115 a named designee.

116 (p) To enter into contracts and expend funds of the
117 board to fulfill the requirements of this act.

118 (q) To borrow money for the initial start-up operation
119 of the board until sufficient receipts are paid into the special
120 revenue trust fund specified in Section 9 of this act.

121 (r) The board shall require all Installers and Service
122 Technicians to pass the NTS Level 1 within one (1) year of
123 employment.

124 SECTION 4. No person who is a burglar alarm systems company
125 shall be licensed until he or she has made a satisfactory showing
126 to the authority that he or she has satisfied the qualifications
127 prescribed in this act, by presenting proof of passing Level 1 of
128 the National Training School (NTS) of the National Burglar and
129 Fire Alarm Association (NBFAA).

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

133 (2) The annual license fee as set by the board shall not
134 exceed One Hundred Fifty Dollars (\$150.00) for an individual or
135 Seven Hundred Fifty Dollars (\$750.00) for a business entity.

136 (3) A business shall license all employees during their time
137 of employment including sales, service and installation during
138 their time of employment with said business.

139 (4) The license shall not be transferred or assigned and is

140 valid only with respect to the person to whom it is issued.

141 (5) (a) No license shall be granted if the applicant has
142 had any prior business license revoked for fraud,
143 misrepresentation or any other chapter that would constitute a
144 violation of this act.

145 (b) (i) An applicant shall not be refused a license
146 solely because of a prior criminal conviction. The board may
147 refuse a license if, based on all the information available,
148 including the applicant's record of prior convictions, the board
149 finds that the applicant is unfit or unsuited to engage in the
150 business.

151 (ii) The board may consult with appropriate state
152 or federal law enforcement authorities to verify whether an
153 applicant has a criminal record prior to granting any license and,
154 as an aid to this duty, each applicant may be required to provide
155 his or her fingerprints and complete an affidavit of his or her
156 criminal record, if any, as a part of the application. The board
157 may periodically consult with state and federal law enforcement
158 officials to determine whether current licensees have new criminal
159 convictions.

160 (6) Any license granted pursuant to this act shall expire
161 December 31 of each year unless it is renewed pursuant to
162 regulations established by the board or unless it is suspended or
163 revoked.

164 (7) An affirmative vote of a majority of board members shall
165 be required before any action to suspend or revoke a license, to
166 impose a sanction on a licensee, or to levy a monetary penalty. A
167 board member shall disqualify himself or herself and withdraw from

168 any case in which he or she cannot accord fair and impartial
169 consideration.

170 (8) A nonresident of this state may be licensed by meeting
171 one of the following requirements:

172 (a) Conforming to the provisions of this act and the
173 regulations of the board.

174 (b) Holding a valid license in another state with which
175 reciprocity has been established by the board.

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

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

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

185 (12) The board shall prepare information of consumer
186 interest describing the regulatory functions and describing the
187 procedures of the board by which consumer complaints shall be
188 filed with and resolved by the board. The board shall make the
189 information available to the general public and appropriate state
190 agencies. The board shall provide upon request a listing of all
191 licensees. The board may collect a fee for the cost of
192 duplicating and mailing materials.

193 (13) Each written contract for services in the state of a
194 licensee shall contain the name, mailing address and telephone
195 number of the board and a statement informing consumers that

196 complaints against licensees may be directed to the board.

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

202 (15) Information contained in burglar alarm system records
203 held by the board concerning the location of a burglar alarm
204 system, the name of the occupant residing at the burglar alarm
205 system location, or the type of burglar alarm system used shall be
206 confidential and disclosed only to the board or as otherwise
207 required by law.

208 SECTION 6. The licensing and regulatory provision of this
209 act shall not apply to any of the following persons, entities or
210 activities.

211 (a) A person or business entity which sells burglar
212 alarm systems at the premises of the customer and does not
213 install, service or respond to the burglar alarm system at the
214 premises of the customer.

215 (b) The installation, servicing or responding to a
216 burglar alarm device which is installed in a motor vehicle,
217 aircraft or boat.

218 (c) The installation of a burglar alarm system on
219 property owned by or leased to the installer.

220 (d) A locksmith who does not install or service burglar
221 alarm systems.

222 (e) A person or business entity who owns or installs
223 burglar alarm systems on his or her own property, or, if he or she

224 does not charge for the system or its installation, installs it
225 for the protection of his or her personal property located on the
226 property of another, and does not install the system as a normal
227 business practice on the property of another.

228 (f) A person or business entity whose sale of a burglar
229 alarm system is exclusively over-the-counter or by mail order.

230 (g) A person or business entity in the business of
231 building construction that installs electrical wiring and devices
232 that may include in part the installation of a burglar alarm
233 system if both of the following apply:

234 (i) The person or business entity who is a party
235 to a contract that provides for the installation shall be
236 performed under the direct supervision of inspected, and certified
237 by a person or business entity licensed to install a burglar alarm
238 system and that the licensee assumes full responsibility for the
239 installation and service of the burglar alarm system.

240 (ii) The person or business entity does not
241 service or maintain the burglar alarm system.

242 (h) The response to a burglar alarm system by a law
243 enforcement agency or by a law enforcement officer acting in an
244 official capacity.

245 (i) A business that engages in the installation or
246 operation of telecommunications facilities or equipment which are
247 used for the transport of any signal, data, or information outside
248 the continuous premises on which any burglar alarm system is
249 installed or maintained.

250 (j) Any business entity, business owner, or person, or
251 the agent or employee of such business entity, business owner, or

252 person engaging in the routine visual inspection or manufacturer's
253 or installer's recommended testing of a burglar alarm system
254 subject to this act owned by the business entity, business owner,
255 or person and installed on property under the control of the
256 business entity, business owner, or person.

257 (k) Any business entity, or person, or those engaged in
258 property management, or agent or subcontractors or employees
259 thereof, who, in the normal course of business, engage in the
260 routine inspection, service, or replacement of such burglar alarm
261 systems, or security devices subject to this act, on or in
262 property owned or under the control of such business entity, or
263 person, or property manager.

264 (l) Consulting engineers who design, develop, modify,
265 or offer other services within the scope of their profession
266 regarding burglar alarm systems.

267 (m) An electrician who is licensed by the state as an
268 electrical contractor or an electrician who is licensed by the
269 city or county as a master electrician.

270 SECTION 7. (1) It shall be unlawful for any person or
271 business entity to engage in a business regulated by this act in
272 this state without a current valid license or in violation of this
273 act and applicable rules and regulations of the board.

274 (2) It shall be unlawful for a person or business entity not
275 licensed under this act to advertise or hold out to the public
276 that he or she is a licensee of the board.

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

280 (4) It shall also constitute a misdemeanor to willfully or
281 intentionally do any of the following:

282 (a) Obliterate the serial number on a burglar alarm
283 system for the purpose of falsifying service reports.

284 (b) Knowingly and deliberately install or service a
285 burglar alarm system improperly.

286 (c) While holding a license, allow another person or
287 business entity to use the license or license number.

288 (d) Use, or permit the use of, any license by a person
289 or business entity other than the one to whom the license is
290 issued.

291 (e) Use any credential, method, means, or practice to
292 impersonate a representative of the board.

293 (f) Make use of any designation provided by statute or
294 regulation to denote a standard of professional or occupational
295 competence without being duly licensed.

296 (g) Make use of any title, words, letters, or
297 abbreviations which may reasonably be confused with a designation
298 provided by statute or regulation to denote a standard of
299 professional or occupational competence without being duly
300 licensed.

301 (h) Provide material misrepresenting facts in an
302 application for licensure or in other communications with the
303 board.

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

306 (5) The board may institute proceedings in equity to enjoin
307 any person or business entity from engaging in any unlawful act

308 enumerated in this act. Such proceedings shall be brought in the
309 name of this state by the board in the circuit court of the city
310 or county in which the unlawful act occurred or in which the
311 defendant resides.

312 (6) In addition to any other disciplinary action taken by
313 the board, any person or business entity licensed by the board who
314 violates this act or rule or regulation promulgated pursuant to
315 this act shall be subject to a monetary penalty. If the board
316 determines that the person is in fact guilty of the violation, the
317 board shall determine the amount of the monetary penalty for the
318 violation, which shall not exceed One Thousand Dollars (\$1,000.00)
319 for each violation. The board may file a civil action to collect
320 the penalty.

321 (7) The board is entitled to costs and reasonably attorney
322 fees in any civil action in which it prevails.

323 SECTION 8. (1) This act and the rules and regulations
324 promulgated pursuant to this act shall have uniform force and
325 effect through the state. A municipality or county shall not
326 enact an order, ordinance, rule, or regulation requiring a person
327 or business entity to obtain a certification from the municipality
328 or county, other than proof of a valid license issued by the
329 board.

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

333 (3) Nothing in this act limits the power of a municipality,
334 a county, or the state to require the submission and approval of
335 plans and specifications or to regulate the quality and character

336 of work performed by contractors through a system of licenses,
337 fees, and inspections otherwise authorized by law for the
338 protection of the public health and safety.

339 SECTION 9. A separate special fund in the State Treasury to
340 be known as the Mississippi Electronic Security Board of Licensure
341 Fund is hereby established. All receipts collected by the board
342 under this act are to be deposited into this fund and shall be
343 used only to carry out the provisions of this act. The receipts
344 shall be disbursed only by warrant of the State Fiscal Officer
345 upon the State Treasury, upon itemized vouchers approved by the
346 chair of the board. No funds shall be withdrawn or expended
347 except as budgeted, and only in amounts as stipulated in
348 appropriation bills. Any monies in the fund at the end of the
349 fiscal year shall not lapse into the General Fund but shall remain
350 in the fund and any interest accruing to the fund shall remain in
351 the fund.

352 SECTION 10. The provisions of this act are severable. If
353 any part of this act is declared invalid or unconstitutional, that
354 declaration shall not affect the part which remains.

355 SECTION 11. This act shall take effect and be in force from
356 and after July 1, 2000.