

By: Compretta

To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1038

1 AN ACT TO REGULATE AND LICENSE THE INSTALLATION AND SERVICING  
2 OF BURGLAR ALARM SYSTEMS; TO DEFINE CERTAIN TERMS; TO CREATE THE  
3 MISSISSIPPI ELECTRONIC SECURITY BOARD OF LICENSURE AND PRESCRIBE  
4 ITS MEMBERSHIP AND ADMINISTRATION; TO PROVIDE FOR THE POWERS OF  
5 THE BOARD; TO REQUIRE LICENSING; TO REQUIRE FEES; TO PROVIDE  
6 REQUIREMENTS FOR LICENSEE; TO PROVIDE EXEMPTIONS; TO PROVIDE  
7 PENALTIES FOR VIOLATIONS OF THIS ACT; TO PROVIDE FOR UNIFORMITY;  
8 TO CREATE A SPECIAL FUND; 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 which is sent  
18 to a central station and requires a response by an emergency team  
19 such as police or fire personnel.

20 (b) "Burglar alarm system installer" means a person  
21 that offers to undertake, represents himself as being able to  
22 undertake, or does undertake the installation or service, or both,  
23 of burglar alarm systems for the public for any type of  
24 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 (e) "Intrusion alarm system" means an alarm system for  
31 signaling the entry or attempted entry of a person or an object  
32 into the area or volume protected by the system.

33 (f) "Alarm business" means the business, by an  
34 individual, partnership, corporation or other entity of selling,  
35 leasing, maintaining, servicing, repairing, altering, replacing,  
36 moving, installing or monitoring an alarm system at an alarm sign.

37 (g) "Alarm control" means the central controlling  
38 device of an electronic alarm system which monitors sensing  
39 devices and activates signaling devices in the event of an alarm.

40 (h) "Alarm system" means an assembly of equipment and  
41 devices designed and arranged to signal the presence of an alarm  
42 condition requiring urgent attention. The system may be local,  
43 police connection, central station or proprietary.

44 (i) "Certified alarm technician" means a graduate of  
45 the Certified Alarm Technician (Level 1) program sponsored by the  
46 National Burglar and Fire Alarm Association.

47 SECTION 2. (1) The Mississippi Electronic Security Board of  
48 Licensure is created.

49 (2) The board shall consist of the following members to be  
50 appointed by the Governor.

51 (3) Five (5) members, one (1) from each congressional  
52 district, representing the burglar alarm industry shall be  
53 selected from three (3) nominees submitted by the Mississippi  
54 Alarm Association, with the advice and consent of the Senate.

55 (4) (a) The terms of the board members shall be four (4)  
56 years.

57 (b) Of these members first appointed, two (2) shall be  
58 appointed to four-year terms, two (2) for three-year terms and one  
59 (1) for a two-year term.

60 (c) Any vacancy occurring other than by expiration of  
61 terms shall be filled for the remainder of the unexpired term by  
62 appointment by the Governor, subject to the nominating process

63 specified in subsection (2).

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

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

68 (5) Members shall be paid out of the funds of the board the  
69 per diem as provided in Section 25-3-69 for state employees for  
70 each day of attendance of board business.

71 (6) Meetings shall be held at least four (4) times per year.  
72 Special meetings shall be held at the call of the chair or by a  
73 majority of the members of the board.

74 (7) (a) The board may adopt rules of proceedings.

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

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

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

78 (a) License and regulate business entities engaged in  
79 the business of installing and servicing burglar or intrusion  
80 alarm systems.

81 (b) Through regulations, establish the qualifications  
82 for licensure to ensure competency and integrity to engage in  
83 these businesses.

84 (c) Examine, or cause to be examined, the  
85 qualifications of each applicant for licensure including the  
86 preparation, administration, and grading of examinations, and  
87 requiring the applicant to supply a board approved background  
88 investigation.

89 (d) License qualified applicants regulated by the  
90 board.

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

93 (f) Levy and collect reasonable fees for licensure,  
94 including, but not limited to, the application process and testing  
95 of applicants, and renewal, suspension, and reissuance of

96 licenses, and costs of necessary hearings, that are sufficient to  
97 cover all expenses for the administration and operation of the  
98 board.

99 (g) Promulgate rules and regulations necessary to  
100 perform its duties, to ensure continued competency, to prevent  
101 deceptive, misleading, or criminal practices by its licenses and  
102 to effectively administer the regulatory system administered by  
103 the board.

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

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

110 (j) Ensure that periodic inspections are conducted  
111 relating to the operations of licensees to ensure competency and  
112 lawful compliance.

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

116 (l) Require licenses and employees of licenses have  
117 available a photo identification card at all times when providing  
118 licensed services, and must be surrendered to employer at  
119 termination of employment.

120 (m) Promulgate canons of ethics under which the  
121 regulated professional activities of persons and business entities  
122 shall be conducted.

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

126 (o) Delegate its powers and duties by resolution to a  
127 named designee.

128 (p) Enter into contracts and expend funds of the board

129 to fulfill the requirements of this act.

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

133 (r) The board shall require all installers and service  
134 technicians to pass the NTS Level 1 within one (1) year of  
135 employment.

136 SECTION 4. No person shall be licensed under this act until  
137 he makes a satisfactory showing to the board that he or she has  
138 satisfied the qualifications prescribed in this act, by presenting  
139 proof of passing Level 1 of the National Training School (NTS) of  
140 the National Burglar and Fire Alarm Association (NBFAA).

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

144 (2) The annual license fee as set by the board shall not  
145 exceed Fifty Dollars (\$50.00) for an individual and Two Hundred  
146 Dollars (\$200.00) for a business entity. There shall be an  
147 application processing fee not to exceed Two Hundred Fifty Dollars  
148 (\$250.00) per business.

149 (3) A business license shall license all employees during  
150 their time of employment including sales, service and installation  
151 during their time of employment with said business.

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

154 (5) (a) No license shall be granted if the applicant has  
155 had any prior business license revoked for fraud,  
156 misrepresentation or any other cause that would constitute a  
157 violation of this act.

158 (b) The board may consult with appropriate state or  
159 federal law enforcement authorities to verify whether an applicant  
160 has a criminal record prior to granting any license and, as an aid  
161 to this duty, each applicant shall be required to provide his

162 fingerprints and complete an affidavit of his criminal record, if  
163 any, as a part of the application. The board may periodically  
164 consult with state and federal law enforcement officials to  
165 determine whether current licensees have new criminal convictions.

166 (6) Any license granted pursuant to this act shall expire  
167 December 31 of each year unless it is renewed pursuant to  
168 regulations established by the board or unless it is suspended or  
169 revoked.

170 (7) An affirmative vote of a majority of board member shall  
171 be required before any action to suspend or revoke a license, to  
172 impose a sanction on a licensee, or to levy a monetary penalty. A  
173 board member shall disqualify himself or herself and withdraw from  
174 any case in which he or she cannot accord fair and impartial  
175 consideration.

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

178 (a) Conforming to the provisions of this act and the  
179 regulation of this board.

180 (b) By having a qualifying agent from their company  
181 residing in the State of Mississippi and meeting the above  
182 requirements or holding a valid alarm systems contractor's license  
183 in another state with which reciprocity has been established by  
184 the board.

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

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

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

194 (12) The board shall prepare information of consumer

195 interest describing the regulatory functions and describing the  
196 procedures of the board by which consumer complaints shall be  
197 filed with and resolved by the board. The board shall make the  
198 information available to the general public and appropriate state  
199 agencies. The board shall provide upon request a listing of all  
200 licenses. The board may collect a fee for the cost of duplicating  
201 and mailing materials.

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

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

211 (15) Any person who can demonstrate to the board that he has  
212 installed at least five (5) burglar alarm systems within the last  
213 twelve (12) months preceding the effective date of this act shall  
214 be licensed without taking the examination required by this act.

215 SECTION 6. The licensing and regulatory provisions of this  
216 act shall not apply to any of the following persons, entities or  
217 activities:

218 (a) A person or business entity which sells burglar  
219 alarm systems at the premises of the customer and does not  
220 install, service or respond to the burglar alarm system at the  
221 premises of the customer.

222 (b) The installation, servicing, or responding to an  
223 alarm device which is installed in a motor vehicle, aircraft or  
224 boat that is a nonmonitored account.

225 (c) A locksmith who does not install burglar alarm  
226 systems.

227 (d) A person or business entity whose sale of a burglar

228 alarm system is exclusively over the counter or by mail order of  
229 nonmonitored systems.

230 (e) 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 which provides for the installation to be performed  
236 under the direct supervision of, inspected, and certified by a  
237 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 (f) 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 (g) 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 (h) 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 (i) 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 subject to this act, on or in property owned or under  
262 the control of such business entity, or person or property  
263 manager.

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

267 (k) 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) Effective July 1, 2001, it shall be unlawful  
271 for any person or business entity to engage in a business  
272 regulated by this act in this state without a current valid  
273 license or in violation of this act and applicable rules and  
274 regulations of the board.

275 (2) Effective July 1, 2001, it shall be unlawful for a  
276 person or business entity not licensed under this act to advertise  
277 or hold out to the public that he or she is a licensee of the  
278 board.

279 (3) Any person who violates any provision of this act or any  
280 rule or regulation of the board shall be guilty of a misdemeanor  
281 and, upon conviction, shall be fined not more than One Thousand  
282 Dollars (\$1,000.00).

283 (4) Effective July 1, 2001, it shall also constitute a  
284 misdemeanor to willfully or intentionally do any of the following:

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

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

289 (c) Use any credential, method, means or practice to  
290 impersonate a representative of the board.

291 (d) Refuse to furnish the board information or records  
292 required or requested pursuant to statute or regulation.

293 (5) The board may institute proceedings in equity to enjoin

294 any person or business entity from engaging in any unlawful act  
295 enumerated in this act. Such proceedings shall be brought in the  
296 name of this state by the board in the circuit court of the county  
297 in which the unlawful act occurred or in which the defendant  
298 resides.

299 (6) In addition to any other disciplinary action taken by  
300 the board, any person or business entity licensed by the board who  
301 violates this act or rule or regulation promulgated pursuant to  
302 this act shall be subject to a monetary penalty. If the board  
303 determines that the person is in fact guilty of the violation, the  
304 board shall determine the amount of the monetary penalty for the  
305 violation, which shall not exceed One Thousand Dollars (\$1,000.00)  
306 for each violation. The board may file a civil action to collect  
307 the penalty.

308 (7) The board is entitled to costs and reasonable attorney's  
309 fees in any civil action in which it prevails.

310 SECTION 8. (1) This act and the rules and regulations  
311 promulgated pursuant to this act shall have uniform force and  
312 effect throughout the state. A municipality or county shall not  
313 enact an order, ordinance, rule, or regulation requiring a person  
314 or business entity to obtain a certification from the municipality  
315 or county, other than proof of a valid license issued by the  
316 board.

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

320 (3) Nothing in this act shall limit the power of a  
321 municipality, a county, or the state to require the submission and  
322 approval of plans and specifications or to regulate the quality  
323 and character of work performed by contractors through a system of  
324 licenses, fees and inspections otherwise authorized by law for the  
325 protection of the public health and safety.

326 SECTION 9. A separate special revenue trust fund in the

327 State Treasury to be known as the Mississippi Electronic Security  
328 Board of Licensure Fund is established. All receipts collected by  
329 the board under this act are to be deposited into this fund and  
330 shall be used only to carry out the provisions of this act. The  
331 receipts shall be disbursed only by warrant of the State Fiscal  
332 Officer upon the State Treasury, upon itemized vouchers approved  
333 by the chair of the board. No funds shall be withdrawn or  
334 expended except as budgeted, and only in amounts as stipulated in  
335 the general appropriations bill or other appropriations bills. If  
336 any funds remain in the fund at the end of the fiscal year such  
337 funds shall not lapse into the General Fund but shall remain in  
338 the fund and any interest accruing to the fund shall remain in the  
339 fund.

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

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