

By: Compretta

To: Judiciary B

## 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.

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

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

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

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

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

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

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

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

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

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

(c) Any vacancy occurring other than by expiration of terms shall be filled for the remainder of the unexpired term by 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

to fulfill the requirements of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

221 (c) A locksmith who does not install or service burglar  
222 alarm systems.

223 (d) A person or business entity whose sale of a burglar  
224 alarm system is exclusively over the counter or by mail order of  
225 nonmonitored systems.

226 (e) A person or business entity in the business of  
227 building construction that installs electrical wiring and devices

that may include in part the installation of a burglar alarm system if both of the following apply:

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

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

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

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

(h) Any business entity, business owner, or person, or the agent or employee of such business entity, business owner, or person engaging in the routine visual inspection or manufacturer's or installer's recommended testing of a burglar alarm system subject to this act owned by the business entity, business owner, or person and installed on property under the control of the business entity, business owner or person.

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

(j) Consulting engineers who design, develop, modify or



offer other services within the scope of their profession regarding burglar alarm systems.

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

SECTION 7. (1) Effective July 1, 2001, it shall be unlawful for any person or business entity to engage in a business regulated by this act in this state without a current valid license or in violation of this act and applicable rules and regulations of the board.

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

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

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

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

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

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

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

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

294 resides.

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

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

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

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

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

322       SECTION 9. A separate special revenue trust fund in the  
323 State Treasury to be known as the Mississippi Electronic Security  
324 Board of Licensure Fund is established. All receipts collected by  
325 the board under this act are to be deposited into this fund and  
326 shall be used only to carry out the provisions of this act. The

327 receipts shall be disbursed only by warrant of the State Fiscal  
328 Officer upon the State Treasury, upon itemized vouchers approved  
329 by the chair of the board. No funds shall be withdrawn or  
330 expended except as budgeted, and only in amounts as stipulated in  
331 the general appropriations bill or other appropriations bills. If  
332 any funds remain in the fund at the end of the fiscal year such  
333 funds shall not lapse into the General Fund but shall remain in  
334 the fund and any interest accruing to the fund shall remain in the  
335 fund.

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

339 SECTION 11. This act shall take effect and be in force from  
340 and after January 1, 2001.