

By: Senator(s) Hewes

To: Business and Financial
Institutions

SENATE BILL NO. 2446

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, 2002, 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, 2002, 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, 2002, 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, 2001.