

4/25/14

3:00 PM

Chapter No. 525
14/SS26/R768SG
col 1/21/14

SENATE BILL NO. 2697

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2697

AN ACT TO AMEND SECTION 73-69-1, MISSISSIPPI CODE OF 1972, TO RENAME THE CHAPTER THE "MISSISSIPPI ELECTRONIC PROTECTION LICENSING ACT"; TO AMEND SECTION 73-69-3, MISSISSIPPI CODE OF 1972, TO REVISE THE PURPOSE OF THE CHAPTER; TO AMEND SECTION 73-69-5, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF TERMS USED IN THE CHAPTER; TO AMEND SECTION 73-69-7, MISSISSIPPI CODE OF 1972, TO REVISE THE ADMINISTRATION AND ENFORCEMENT OF THE CHAPTER; TO AMEND SECTION 73-69-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY ENTITY DESIRING TO ENGAGE IN ALARM CONTRACTING SHALL HOLD A CLASS A ALARM CONTRACTING BUSINESS LICENSE; TO AMEND SECTION 73-69-11, MISSISSIPPI CODE OF 1972, TO REVISE THE QUALIFICATIONS FOR EACH CLASS OF LICENSE; TO AMEND SECTION 73-69-13, MISSISSIPPI CODE OF 1972, TO DELETE THE CLASS T LICENSE; TO AMEND SECTION 73-69-15, MISSISSIPPI CODE OF 1972, TO REVISE THE EXEMPTIONS FROM LICENSURE REQUIREMENT; TO AMEND SECTION 73-69-19, MISSISSIPPI CODE OF 1972, TO REVISE APPLICATION AND LICENSING FEES; TO AMEND SECTION 73-69-23, MISSISSIPPI CODE OF 1972, TO REVISE THE OFFENSES OF THE CHAPTER; TO AMEND SECTION 73-69-25, MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTIES FOR VIOLATIONS OF THE CHAPTER; TO AMEND SECTION 73-69-27, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PREVIOUS SECTIONS; TO AMEND SECTION 73-69-31, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE CIVIL PENALTY FOR VIOLATIONS OF THE CHAPTER ARE PER OCCURRENCE; TO CREATE NEW SECTION 73-69-33, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR APPELLATE REVIEW OF ACTIONS BY THE STATE FIRE MARSHAL; TO CREATE NEW SECTION 73-69-35, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR INQUISITORIAL AND SUBPOENA POWER OF THE STATE FIRE MARSHAL; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-69-1, Mississippi Code of 1972, is amended as follows:

73-69-1. This chapter shall be known and may be cited as the "Mississippi * * * Electronic Protection Licensing Act."

SECTION 2. Section 73-69-3, Mississippi Code of 1972, is amended as follows:

73-69-3. The purpose of this chapter is to assure the general public of the competence of individuals and companies which offer electronic protective systems, * * * or services relating to such alarms or systems to the general public by establishing statewide uniform procedures and qualifications for the licensure of such individuals and companies.

SECTION 3. Section 73-69-5, Mississippi Code of 1972, is amended as follows:

73-69-5. As used in this chapter, the following terms shall have the meanings specified in this section:

(a) "Alarm contracting" means providing * * * an electronic protective system * * * to another * * *, including, but not limited to, the * * * design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection or servicing of an electronic protective system * * *; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation * * * directly * * *.

(b) "Alarm contracting company" means an entity that holds a Class A license issued by the State Fire Marshal pursuant to this chapter.

(c) "Alarm verification" means an attempt by a monitoring company or its representative to contact a burglar alarm location or a burglar alarm user by telephone or other electronic means to determine whether a burglar alarm signal is valid in an attempt to avoid unnecessary police response before requesting law enforcement to be dispatched to the location. Alarm verification further means that at least a second call shall be made to a different number if the first attempt fails to reach an alarm user. All persons licensed to monitor alarms in Mississippi shall employ alarm verification standards as defined in the latest version of ANSI/CSAA CS-V-01, for all burglar alarm signals except for hold-up alarms.

(* * *d) "Board" means the Electronic Protection Advisory Licensing Board.

(* * *e) "Burglar alarm" or "burglar alarm system" or "intrusion detection system" or "electronic protective system" means an alarm, alarm system or portion of such an alarm or system that * * * is intended to detect or warn of an intrusion or other emergency in a structure. Such systems shall be certified per the latest version of ANSI/SIA CP01.

(* * *f) "Company" means a proprietorship, partnership, corporation, limited-liability company or any other entity.

(* * *g) "Designated agent" means an owner or employee who holds a Class B license of an alarm contracting company * * * who has been assigned the responsibility of submitting any notice required by this chapter to the State Fire Marshal.

(* * *h) "Supervision" means direct on-site supervision by a * * * qualified license holder for the duties being performed.

(* * *i) "Electronic protective system" means a device or a series or assembly of interconnected devices which, when activated by automatic or manual means, produces an audible, visual or electronic signal intended to detect or warn of a threat to a structure or emergency to or from its occupants. This term shall include a burglar alarm system * * *, intrusion detection system, closed-circuit video system or electronic access control system, all as defined in this chapter, or a portion or combination of such alarms or systems. However, the term "electronic protective system" shall not include the following: (i) an alarm system installed in a motor vehicle; (ii) a burglar alarm system, or household fire warning system sold at retail to an individual end user for self-installation * * *; (iii) a single-station fire alarm system sold at retail to an individual end user for self-installation * * * or installed by a fire

department, the State Fire Marshal Office, a public agency, a volunteer fire association or their designated representatives.

(* * *j) "Employee" means a person who performs services for wages or salary.

(* * *k) "Employer" means a person or entity who hires another to perform services for a wage or salary.

(* * *l) "Individual license" means a Class B, C, D or * * * H license issued by the State Fire Marshal pursuant to this chapter.

(* * *m) "Licensee" means a person or entity to * * * which a license is granted pursuant to this chapter.

(* * *n) "Officer" means the president, vice president, secretary, treasurer, comptroller or any other person who performs functions for an alarm contracting company * * *, corresponding to those performed by those officers.

(* * *o) "Operating location" means a physical address that houses or maintains records of clients.

(* * *p) "Person" means a natural person or individual.

(* * *q) "Principal" means a person or entity that owns at least twenty percent (20%) of an alarm contracting company * * * regardless of the form of organization.

(* * *r) "Salesperson" means a person who solicits another on behalf of an alarm contracting company * * * by * * * door-to-door * * * personal interaction, or a person who

participates in the design, * * * planning, specification or layout of an electronic protective system on behalf of an alarm contracting company * * *.

(* * *s) "Closed-circuit * * * video system" means an * * * electronic protective system that provides video surveillance of events, primarily by means of transmission, recording, or transmission and recording of visual signals through the use of cameras, receivers, monitors and other visual imaging systems.

* * *

(t) "Electronic access control system" means an electronic protective system that is powered by the building's primary power source and is used as a process to grant or deny an individual access to a specific area or object based upon their possession of an item (which requires a decoder), a code or physical characteristic (biometrics).

(u) "Smoke alarm" means a single or multiple-station alarm responsive to smoke.

(v) "Single-station alarm" means a detector comprising an assembly that incorporates sensor, control components and an alarm notification appliance in one unit operated from a power source either located in the unit or obtained at the point of installation.

(w) "Multiple station alarm" means two (2) or more single-station alarm devices that can be interconnected so that

actuation of one causes all integral or separate audible alarms to operate; or one (1) single-station alarm device having connections to other detectors or to a manual fire alarm box.

(x) "Heat detector" means a fire detector that detects either abnormally high temperature or rate-of-temperature rise, or both.

SECTION 4. Section 73-69-7, Mississippi Code of 1972, is amended as follows:

73-69-7. (1) The State Fire Marshal shall administer and enforce the provisions of this chapter and shall have the authority to promulgate and adopt such rules and regulations as may be necessary for such proper administration and enforcement. The Electronic Protection Advisory Licensing Board created in Section * * * 73-69-21 shall advise the State Fire Marshal with respect to the rules and regulations of the provisions of this chapter. The State Fire Marshal shall have the authority to approve written training programs or acceptable equivalents for meeting the training requirements of this licensing law. The State Fire Marshal may also accept, as such an equivalent, licensure of a company or person by a jurisdiction outside this state, which has standards and requirements of practice which substantially conform to the provisions of this chapter. The State Fire Marshal shall also establish continuing education requirements.

(2) Application for a Class A license. In order to engage in alarm contracting, a company shall apply for and obtain a Class A license for each operating location doing business in the state. A Class A license shall authorize a company to engage in any type of alarm contracting. An applicant for a Class A license shall submit the following to the State Fire Marshal:

(a) Documentation that the company is an entity duly authorized to conduct business within this state.

(b) Documentation that the company holds a general liability and errors and omissions insurance policy, or a surety bond, in an amount not less than Three Hundred Thousand Dollars (\$300,000.00).

(c) Documentation that the company carries a current and valid workers' compensation insurance policy as required by state law.

(d) The name of the person who will serve as the designated agent of the company.

(e) For a company applying for a Class A license, evidence that the company has at least one (1) employee who holds a Class B license at each of its operating locations.

(f) A statement that no officer or principal has been convicted of a felony, has received a first-time offender pardon for a felony, or has entered a plea of guilty or nolo contendere to a felony charge.

* * *

(g) The application fee authorized by this chapter.

(h) Documentation that the company is located within the physical boundaries of the state.

(i) * * * Beginning on July 1, 2014, in order to assist the Office of the State Fire Marshal in determining an applicant's suitability for a license under this chapter, a Class A applicant, upon request from the State Fire Marshal, shall submit a set of fingerprints for all officers and principals with the submission of an application for license or at such time as deemed necessary by the State Fire Marshal. The Office of the State Fire Marshal shall forward the fingerprints to the Department of Public Safety for the purpose of conducting a criminal history record check. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. Fees related to the criminal history record check shall be paid by the applicant to the State Fire Marshal and the monies from such fees shall be deposited in the special fund in the State Treasury designated as the Electronic Protection Licensing Fund.

(j) The name of each company providing monitoring services.

(3) If the action by the State Fire Marshal is to nonrenew or to deny an application for license, the State Fire Marshal shall notify the applicant or licensee and advise, in writing, the

applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the State Fire Marshal within ten (10) days for a hearing before the State Fire Marshal to determine the reasonableness of the State Fire Marshal's action. The hearing shall be held within thirty (30) days.

SECTION 5. Section 73-69-9, Mississippi Code of 1972, is amended as follows:

73-69-9. (1) Any entity desiring to engage in alarm contracting shall hold a Class A Alarm Contracting Business license issued by the State Fire Marshal.

(* * *2) If the State Fire Marshal finds that a company has met the requirements of licensing, he shall issue a Class A license to engage in alarm contracting to that company upon payment of the license fee authorized by this chapter. Such license shall include the name of the designated agent of the alarm contracting company as applicable.

(* * *3) Each alarm contracting company shall be physically located within the boundaries of the state and shall clearly display its license in a conspicuous location at its place of business.

(* * *4) Each alarm contracting company shall employ a Class B license holder.

(* * *5) The designated agent of an alarm contracting company shall notify the State Fire Marshal within ten (10) days of the following:

(a) Any change in the business address of the company.

* * *(i) Any change in ownership of or interest in the company.

(ii) Any owner, partner or other principal with an interest in the company, which has been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge or received a first-time offender pardon. * * *

(* * *b) Any change in the employment of a person holding an individual license.

(* * *c) A change of the company providing monitoring services.

(* * *6) In the event of the death of its designated agent or his separation from the company for any other reason, an alarm contracting company shall name another qualified owner or manager as its designated agent within ninety (90) days and shall notify the State Fire Marshal of such designation within ten (10) days.

(* * *7) Each alarm contracting company doing business in the state shall be open for inspection by the State Fire Marshal or his designated representative at any reasonable time for the purpose of observation and collection of facts and data relating to proper enforcement of this chapter. No person acting on behalf of an alarm contracting company shall refuse to admit the State

Fire Marshal or his designated representative to an operating location.

(* * *8) Client records must be maintained for inspection by the State Fire Marshal for a three-year period.

SECTION 6. Section 73-69-11, Mississippi Code of 1972, is amended as follows:

73-69-11. (1) Any person employed by an alarm contracting company shall hold an individual license issued by the State Fire Marshal. Such * * * license shall authorize its holder to engage in alarm contracting * * *, only to the extent of the terms as further provided in this chapter.

(2) * * * Such application shall be accompanied by:

(a) Two (2) suitable photographs of the applicant acceptable to the State Fire Marshal. The State Fire Marshal shall keep one (1) photograph on file and shall make the other photograph a part of any license subsequently issued to the applicant.

(b) * * * Documentation that the applicant meets educational requirements applicable to the type of license for which he is applying, as follows:

(i) For a Class B license: a minimum of * * * Electronic Security Association, Level 2 A and Level 2 B Burglar Alarm training course or the Electronic Security Association, Fire Alarm Installation Methods and Advanced Intrusion Systems training courses, or equivalent training approved by the State Fire

Marshal, and documentation proving residency within a radius of one hundred fifty (150) miles of the office to which he is assigned.

(ii) For a Class C license: a minimum of * * * Electronic Security Association Level 1 * * * Certified Alarm/Security Technician training course, or equivalent training approved by the State Fire Marshal.

(iii) For a Class D license: a minimum of * * * Electronic Security Association, * * * Understanding * * * Electronic Security Systems training course, or equivalent training approved by the State Fire Marshal * * *.

(iv) For a Class * * * H license: application * * * a Class B * * * or Class C * * * license * * * holder that they will provide direct supervision of the Class H licensee.

(c) (i) A statement by the applicant that he has not been convicted of a felony, received a first-time offender pardon for a felony, or entered a plea of guilty or nolo contendere to a felony charge. A felony that has been dismissed pursuant to the Mississippi Criminal Code or equivalent judicial dismissal shall not apply to this paragraph.

(ii) A conviction or a plea of guilty or nolo contendere to a felony charge or receipt of a first-time offender pardon shall not constitute an automatic disqualification as otherwise required pursuant to subparagraph (i) if ten (10) or

more years have elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication or period of probation or parole.

(iii) Subparagraph (ii) shall not apply to any person convicted of a felony crime of violence or a sex offense as defined within the Mississippi Criminal Code.

(d) * * * The State Fire Marshal shall have the authority to conduct criminal history verification on a local, state or national level. Beginning on July 1, 2014, in order to assist the Office of the State Fire Marshal in determining an applicant's suitability for a license under this chapter, an applicant shall submit a set of fingerprints with the submission of an application for license. The Office of the State Fire Marshal shall forward the fingerprints to the Department of Public Safety for the purpose of conducting a criminal history record check. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. Fees related to the criminal history record check shall be paid by the applicant to the State Fire Marshal and the monies from such fees shall be deposited in the special fund in the State Treasury designated as the Electronic Protection Licensing Fund.

(e) The application fee authorized by this chapter.

(3) The State Fire Marshal shall have the authority to determine if information submitted by an applicant is in a form acceptable to him. The State Fire Marshal shall verify or have another entity verify information submitted by each applicant.

(4) If the State Fire Marshal finds that an applicant has met the applicable requirements of the alarm licensing law, he shall issue the appropriate type of license to the applicant upon payment of the license fee authorized by this chapter.

(5) Each individual license holder shall maintain his license on his person while engaging in any type of alarm contracting * * * as applicable. Each such license holder shall present his license for inspection upon demand by an employee of the Office of the State Fire Marshal or a law enforcement officer.

(6) Each individual license holder shall notify the State Fire Marshal, on a form specified and provided by the State Fire Marshal, within ten (10) days of the following:

(a) Any change in business or home address.

(b) Any separation from an employer or change in employer.

(c) Any conviction for a felony or entry of a plea of guilty or nolo contendere to a felony charge or receipt of a first-time offender pardon.

(7) No individual licensed under this chapter shall contract for his services as an independent contractor or agent without applying for and being issued a Class * * * A license * * * per

Section 73-69-9. No alarm contracting company * * * shall contract for the independent services of a holder of an individual license under this section.

(8) The State Fire Marshal may enter into reciprocal agreements with other states for mutual recognition of individual license holders, if the State Fire Marshal has established the criteria for acceptance of reciprocal agreements by rule or regulation. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

(9) * * * If the action by the State Fire Marshal is to nonrenew or to deny an application for license, the State Fire Marshal shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the State Fire Marshal within ten (10) days for a hearing before the State Fire Marshal to determine the reasonableness of the State Fire Marshal's action. The hearing shall be held within thirty (30) days.

SECTION 7. Section 73-69-13, Mississippi Code of 1972, is amended as follows:

73-69-13. The State Fire Marshal is authorized to issue individual licenses to qualified applicants that entitles the license holder to perform the following:

(a) Class B license: Alarm System Technician. Such license shall authorize its holder to design, plan, specify, lay out, sell, pre-wire, install, maintain, repair, test, inspect or service an electronic protective system while in the employ of an alarm contracting company.

(b) Class C license: Alarm System Installer. Such license shall authorize its holder to design, plan, specify, lay out, sell, pre-wire, install, maintain, repair, test, inspect or service an electronic protective system while in the employ of an alarm contracting company.

(c) Class D license: Alarm System Salesperson. Such license shall authorize its holder to design, plan, specify, lay out or sell an electronic protective system while in the employ of an alarm contracting company.

(d) Class * * * H license: Alarm System Helper * * *. Such license shall authorize its holder to * * * pre-wire, * * * or assist a Class B or Class C license holder install or service an electronic protective system while under the direct supervision of a licensed Class B or Class C holder in the employ of an alarm contracting company. * * *

SECTION 8. Section 73-69-15, Mississippi Code of 1972, is amended as follows:

73-69-15. (1) No person or company shall engage in alarm contracting without holding a current and valid license issued by

the State Fire Marshal as provided in this chapter. However, this requirement for licensure shall not apply to:

(a) Any company or natural person licensed to perform electrical work by the Mississippi State * * * Board of Contractors. This exception from licensure shall apply to the installation of wire, conduit, or other wire raceways, its associated boxes or fittings. This exception from licensure shall also apply to the employees of a company or natural person excepted by this paragraph, but only as to work performed by them on behalf of the excepted employer. Notwithstanding any other provisions of this chapter, no person licensed under this chapter may install primary power sources of sixty (60) volts or greater when such power source is being installed to operate low-voltage systems.

* * *

(* * *b) Any owner, management company or public institution and such person's or entity's employees while such person or entity is designing, installing, inspecting, repairing, servicing, recoding, adjusting or testing closed-circuit television alarm systems on the premises of the owner or public institution during the normal course and scope of his duties.

(* * *c) Any owner, management company or public institution and such person's or entity's employees while such person or entity is designing, installing, inspecting, repairing, servicing or testing a burglar alarm system only on the premises

of the owner or public institution during the normal course and scope of his duties.

(* * *d) Any retailer that sells alarm systems as part of a multiproduct offering * * * including any company and its affiliates, contractors, agents and employees that only sell alarm systems over the Internet or via a website, by telephone or in retail settings. This exception to licensure shall not apply to sales that take place door-to-door or physically inside or at or on a consumer's premises.

(e) Any retailer or installer of smoke alarm warning systems, or single-station heat detectors, sold and installed to detect or warn of smoke or fire and intended for use in a residential one- or two-family dwelling or wholly within the confines of an individual living unit in a residential multifamily structure.

(f) * * * Any company, or its agents that monitor burglar alarm systems, intrusion detection systems, or electronic protection systems but that does not directly install such systems.

(g) * * * Any professional engineer licensed by the Mississippi Board of Registration for Professional Engineers and Land Surveyors.

(h) Any owner, management company or public institution and such person's or entity's employees while such person or entity is designing, installing, inspecting, repairing, servicing,

recoding, adjusting or testing telemedicine, store-and-forward telemedicine services, remote patient-monitoring services or mediation adherence-management services during the normal course and scope of his duties.

(2) No person or company shall aid, abet, facilitate or otherwise assist any unlicensed person or company in engaging in alarm contracting * * *, including, but not limited to, the sale of an electronic protective system as defined in this chapter when such person or company knew or should have known that the person or company thus assisted was unlicensed.

(3) No person or company shall engage in * * * alarm system contracting without holding a current and valid license issued by the State Fire Marshal as provided in this act. However, this requirement shall not apply to * * *:

* * * An officer or employee of the United States, this state, or any political subdivision of either, while engaged in the performance of his official duties within the course and scope of his employment with the United States, this state, or any political subdivision of either.

* * *

SECTION 9. Section 73-69-19, Mississippi Code of 1972, is amended as follows:

73-69-19. (1) The State Fire Marshal is authorized to assess and collect fees pursuant to this chapter, the amount of which shall not exceed the following:

* * *

(* * *a) Application fee and provisional or original company Class A license \$ * * * 450.00.

(* * *b) Application fee and provisional or original individual Class B, Class C, * * * Class D or Class H license \$ * * * 150.00.

(* * *c) * * * License Class change fee \$ * * * 50.00.

(e) Annual renewal for Class B, Class C * * *, Class D or Class H license fee \$ 50.00.

(f) Annual renewal for a Class A license fee \$200.00.

(g) Fee for a duplicate or replacement license \$ 20.00.

(2) The fees established in this section shall not be refundable except under such conditions as the State Fire Marshal may establish.

(3) All monies received by the State Fire Marshal pursuant to this chapter, including, but not limited to, fees and fines, shall be deposited immediately upon receipt by the State Fire Marshal into a special fund which is hereby created in the State Treasury and designated as the * * * Electronic Protection Licensing Fund.

(4) The monies in the * * * Electronic Protection Licensing Fund shall be used solely for implementation, administration and enforcement of this chapter * * * by the State Fire Marshal * * *.

Any surplus monies and interest remaining to the credit of the fund at the end of the fiscal year shall remain to the credit of the fund, and no part thereof shall revert to the State General Fund.

SECTION 10. Section 73-69-23, Mississippi Code of 1972, is amended as follows:

73-69-23. (1) Class I offenses shall be as follows:

* * *

(* * *a) Failure of an alarm contracting company * * * to timely notify the State Fire Marshal of certain changes in the status of the licensee as required by this licensing law.

(* * *b) Failure of an alarm contracting company * * * as applicable, to do either of the following:

(i) Clearly display the company's license at its place of business as required.

(ii) Replace a required Class B, license holder or its designated agent and to timely notify the State Fire Marshal as required by this licensing law.

(* * *c) Failure of an individual license holder to maintain his license on his person and to present it for inspection as required by this licensing law.

(* * *d) Assisting an unlicensed person or company to engage in alarm contracting or * * * as prohibited.

(* * *e) Refuse to admit the State Fire Marshal or his designated representative to an operating location or refuse to cooperate in the purposes of such admittance as required.

(2) Class II offenses shall be as follows:

(a) Commission of a second Class I offense.

(b) A Class I offense committed during a probation of one's licensure for a Class I offense.

(3) A Class III offense shall be as follows:

(a) The * * * signature of or submission by an applicant or licensee of any document to the State Fire Marshal when the applicant or licensee knew that document contained false or intentionally misleading information.

(b) Engaging in alarm contracting * * * without a license as prohibited.

(c) Engaging in alarm contracting * * * during suspension of one's license.

(d) The repeated * * * willful commission of Class I or Class II offenses.

(e) Failure by an alarm contracting company to maintain a general liability and errors and omissions insurance policy as required, or to maintain a workers' compensation insurance policy as required by state law.

(f) Engaging in false, misleading or deceptive acts or practices.

SECTION 11. Section 73-69-25, Mississippi Code of 1972, is amended as follows:

73-69-25. (1) The State Fire Marshal may impose, by written citation after reasonable notice and opportunity for hearing in accordance with the Administrative Procedures Act, penalties for violation of this chapter as provided in this section. Appeals from imposition of such penalties shall also be governed by the Administrative Procedures Act.

(2) A Class I offense shall be punishable by any or all of the following:

(a) Written reprimand by the State Fire Marshal. Such reprimand shall be a part of the record of the licensee and shall be maintained by the State Fire Marshal for a period of three (3) years. During such time, the reprimand may be given consideration in taking any subsequent disciplinary action against that licensee.

(b) Probation of licensure for not more than twelve (12) months. Such probation may include placement of restrictions on the alarm contracting * * * activities and the license of the offender. Any subsequent offense committed during probation will make the offender subject to penalties for a Class II offense.

(c) A fine of not more than Five Hundred Dollars (\$500.00) per offense.

(3) A Class II offense shall be punishable by any or all of the following:

(a) Any penalty authorized for a Class I offense.

(b) Suspension of licensure for not more than twenty-four (24) months.

(c) A fine of not more than One Thousand Dollars (\$1,000.00) per offense.

(4) A Class III offense shall be punishable by any or all of the following:

(a) Any penalty authorized for a Class I or Class II offense.

(b) Revocation of licensure.

(c) A fine of not more than Five Thousand Dollars (\$5,000.00) per offense.

(5) The State Fire Marshal may impose a separate penalty for each separate commission of an offense.

(6) Any person who knowingly and willfully violates any of the provisions of this chapter or any rules and regulations made hereunder shall be liable to the State of Mississippi for a civil penalty of not more than Five Thousand Dollars (\$5,000.00) for each such violation. Each violation of a provision of this chapter or a rule or regulation made hereunder shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed Five Hundred Thousand Dollars (\$500,000.00) for any related series of violations occurring within one (1) year from the date of the first violation.

(7) In addition to any other penalty provided in this section, an alarm contracting company, individual director, officer or agent of an alarm contracting company who knowingly and willfully fails to obtain the applicable license under this chapter and who is required to obtain such license under this chapter, and who may knowingly and willfully violate any provisions of this chapter or any rules and regulations made hereafter with respect to, including, but not limited to, the sale, lease, rent, design or planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing modification, improvement, alteration, inspection or servicing of an electronic protective system, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one (1) year, or both.

SECTION 12. Section 73-69-27, Mississippi Code of 1972, is amended as follows:

73-69-27. (1) Except for requirements which pertain to all types of businesses generally, no county or municipality shall enact any new ordinance, rule or regulation regulating companies and persons subject to licensure pursuant to this chapter.

(2) This chapter shall supersede any existing county or municipal ordinance, rule or regulation requiring certification or licensure of companies and persons engaged in alarm contracting,

and such ordinances, rules and regulations shall be null, void and of no effect.

(3) Additionally, this chapter shall supersede any existing county or municipal ordinance, rule or regulation requiring certification or licensure of companies and persons engaged in alarm contracting, closed-circuit * * * video system contracting or electronic access control system contracting and such ordinances, rules and regulations shall be null, void and of no effect.

SECTION 13. Section 73-69-31, Mississippi Code of 1972, is amended as follows:

73-69-31. (1) Each alarm contracting company engaged in alarm contracting who sells an electronic protective system to a consumer shall immediately return the lockout, installer or programming code of the electronic protective system to the factory default setting when the consumer cancels the contract with the alarm contracting company and contracts with another alarm contracting company provided all * * * contractual obligations are fulfilled.

(2) In addition to the penalties provided in this chapter, any alarm contracting company who violates this section shall have its license revoked and be subject to a civil fine by the State Fire Marshal of not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) per occurrence.

SECTION 14. The following shall be codified as Section 73-69-33, Mississippi Code of 1972:

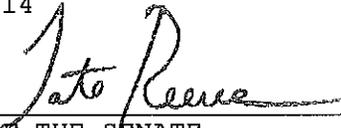
73-69-33. Any person aggrieved by any action or decision of the State Fire Marshal under the provisions of this chapter may appeal therefrom, within thirty (30) days after receipt of notice thereof to the Chancery Court of the First Judicial District of Hinds County by certiorari in the manner provided by law. Such appeal shall be without supersedeas except that the court may grant supersedeas as otherwise provided by law here the license is revoked. The court shall have the authority and jurisdiction to hear the appeal and render its decision in regard thereto in termtime or vacation.

SECTION 15. The following shall be codified as Section 73-69-35, Mississippi Code of 1972:

73-69-35. For the purposes of making such investigations as he may deem necessary for the proper administration of this article, the State Fire Marshal shall have the inquisitorial powers and shall be empowered to subpoena witnesses and examine them under oath, provided that all testimony, documents and other evidence required to be submitted to the State Fire Marshal pursuant to this chapter shall be privileged and shall not be admissible as evidence in any other proceeding.

SECTION 16. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE SENATE
April 1, 2014



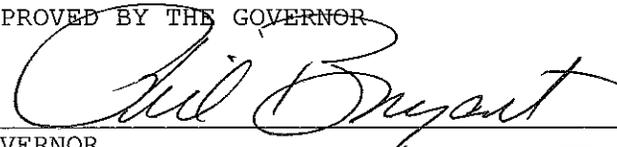
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 1, 2014



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR
4/23/14 3:05 pm