



H.B. 649
123rd General Assembly
(As Introduced)

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BILL SUMMARY

- Creates the Commission on Electronic Security System Regulation under the Department of Commerce.
- Regulates persons who perform electronic security system services and who provide instruction regarding electronic security systems.
- Imposes civil and criminal penalties against persons who violate the laws regulating electronic security system services.

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CONTENT AND OPERATION

Overview

The bill creates the Commission on Electronic Security System Regulation (hereafter "Commission") under the Department of Commerce and establishes a system whereby the Commission may license persons who perform electronic security system services.

An "electronic security system" is defined in the bill as an assembly of electronic equipment and devices, including access control and closed circuit television, that for its main purpose detects threats, intrusions, or violations to security or safety of life or property. The bill defines an electronic security system company as any business entity (sole proprietor, partnership, association, limited liability company, limited liability partnership, or corporation) that sells, installs, repairs, monitors, or investigates electronic security alarms or provides any combination of those services related to electronic security systems.

The bill creates and defines various classifications of service providers who must, as individuals, be registered, certified, or licensed to perform electronic security system services. (See below "**Licensing and registration requirements for individuals.**")

The Commission on Electronic Security System Regulation

Appointees

The bill creates the Commission on Electronic Security System Regulation (hereafter "Commission") that, for administrative purposes, is under the Department of Commerce. The Governor, with the advice and consent of the Senate, is required to appoint six members to the Commission as follows:

(1) Three members possessing a minimum of five years' experience in the electronic security industry prior to appointment and licensed to provide at least one type of electronic security system service (initial members are not required to be licensed);

(2) One member from the Ohio Consumer Protection Association with experience and direct involvement with electronic security systems;

(3) One member from the Ohio Chamber of Commerce with experience and direct involvement with electronic security systems;

(4) One member who is responsible for false alarm prevention in any municipality of Ohio.

Members receive reimbursement for actual expenses reasonably incurred in the performance of their duties. (Sec. 4749.23(A) and (C).)

Terms of members

Of the initial appointees, two members serve for a term of two years from the date of appointment, two members serve for a term of three years from the date of appointment, and two members serve for a term of four years from the date of appointment. After the initial appointments, members serve for a term of four years from the date of appointment, each term ending on the same day of the same month four years after the term it succeeds. A member is required to serve after the member's term expires until a successor is appointed, or for a period of 60 days past the expiration of the term, whichever occurs first. Vacancies to the Commission are filled in the same manner prescribed for regular appointments and are limited to the unexpired portion of the remaining term. A Commission member may not be appointed for more than two consecutive terms. The Governor may remove any member of the Commission for misconduct in office. (Sec. 4749.23(B).)

Duties

The bill requires the Commission to do all of the following:



(1) Advise the Director of Commerce on standards and rules established for the operation of electronic security system companies;

(2) Advise the Director regarding rules, procedures, and fees established to carry out and to license persons under the law governing electronic security system services;

(3) Hear appeals from decisions reached by the Director regarding disqualifying offenses;

(4) Maintain a registry of all electronic security license holders, registrants, and applicants for licensure that does not include criminal history information, but does contain all of the following information:

(a) The person's name;

(b) The person's address;

(c) The person's date of birth;

(d) The type of registration, certificate, or license issued to the person;

(e) Any disciplinary actions taken against the person;

(f) The person's employer;

(g) Any other information the Commission considers appropriate. (Sec. 4749.23.)

Duties of the Director of Commerce

The bill requires the Director to do all of the following:

(1) Establish reasonable rules in accordance with the Administrative Procedure Act necessary to carry out the law governing electronic security system services;

(2) Establish certification standards for electronic security system instructors;

(3) Issue licenses to applicants who meet the requirements established in the law governing electronic security system services;

(4) Certify electronic security system schools, training programs, and instructors;

(5) Compare annually information in the registry of applicants and licensees maintained by the Commission with the state crime registry;

(6) Hold hearings biennially to determine a fee structure, including a single fee for applicants who apply for multiple licenses, which are not allowed to exceed the prorated direct costs of administering and enforcing the laws governing electronic security system services;

(7) Determine which type of offenses shall constitute disqualifying offenses;

(8) With the advice of the Commission on electronic security system regulation, submit an annual report to the Governor and to the General Assembly that includes all of the following information:

(a) The cost of administering the law governing electronic security system services;

(b) An evaluation of the effectiveness of the law governing electronic security system services in protecting the public interest;

(c) The length of time it takes to conduct criminal background checks;

(d) The number and the type of each registration issued;

(e) Information regarding the enforcement actions taken to enforce laws governing electronic security system services;

(f) Any other relevant information. (Sec. 4749.24(A).)

The bill allows the Director to do the following:

(1) Adopt and enforce reasonable rules relative to the exercise of the Director's powers and authority, and proper rules to govern the Director's proceedings and to regulate the manner of all investigations and hearings;

(2) Amend and modify any of the Director's rules as the Director finds necessary;

(3) Subject to civil service laws, employ persons that are required for the administration of the law governing electronic security system services. (Sec. 4749.24(B).)

Prohibitions

Under the bill, unless a person is registered, certified, or licensed and in compliance with the laws regulating persons who perform electronic security system services, that person is not allowed to do any of the following:

- (1) Sell, lease, rent, design, plan, install, monitor, maintain, repair, test, inspect, or otherwise operate or conduct business as an electronic security service provider;
- (2) Employ any person not registered, certified, or licensed by the Director for the purpose of providing electronic security system services;
- (3) Perform services, advertise services, or otherwise act as an electronic security system technician, salesperson, operator, supervisor, registered employee, or certified instructor;
- (4) Operate a certified training school or certified training program. (Sec. 4749.22.)

Licensing and registration requirements for individuals

The bill requires applicants for registration or licensure to be affiliated with an electronic security company. The applicant must submit all of the following to the Director for consideration:

- (1) A fully completed, signed, and sworn application on a form prescribed by the Director;
- (2) Two sets of classifiable fingerprints;
- (3) Two passport size photographs;
- (4) An application fee, as established by the Director in biennial hearings (*see above*, "**Duties of the Director of Commerce**");
- (5) Written verification from the applicant's employer or prospective employer that the employer has made a reasonable effort to verify the work history information of the applicant;
- (6) A written statement by a certified electronic security system instructor or school verifying that the applicant has successfully completed training and passed an examination required for the type of license the applicant is requesting. (Sec. 4749.25(A).)

Qualifications for an electronic security system salesperson license

Under the bill, an "electronic security system salesperson" is defined as an individual registered to provide sales, lease, or rental of electronic security system applications at the premises of the consumer. The bill requires an applicant for an electronic security system salesperson license to have successfully completed at least ten hours of classroom training in a program approved by the Director, covering regulation overview, industry overview, problem identification and needs analysis, presentation, site survey, sensors, control panels, communications, and false alarm prevention. (Sec. 4749.25(C).)

Qualifications for an electronic security system technician license

The bill defines an electronic security system technician as an individual registered to perform installation and repair of electronic security systems. The bill requires an applicant for an electronic security system technician license to have successfully completed at least 18 hours of classroom training in a program approved by the Director, covering regulation overview, industry overview, basic electricity, standards, detectors and sensors, controls, communications, job planning, false alarm prevention, and job safety. (Sec. 4749.25(B).)

Qualifications for an electronic security system operator supervisor

Under the bill, an electronic security system operator supervisor is an individual licensed to supervise electronic security system operators. The bill requires an applicant for an electronic security system operator supervisor license to be at least 18 years of age and to have successfully completed at least seven hours of classroom training in a program approved by the Director, covering regulation, industry, and electronic security system overviews, signal types, standards, central station systems and procedures, and false alarm prevention. (Sec. 4749.25(D).)

Qualifications for an electronic security system operator

The bill defines an "electronic security system operator" as an individual licensed to monitor and to receive and retransmit information from an electronic security system only under the supervision of an electronic security system operator supervisor. The bill requires an applicant for an electronic security system operator to have successfully completed eight hours of on-the-job training under the direct supervision of a licensed electronic security system operator supervisor. (Sec. 4749.25(E).)

Registered employees

Under the bill, a "registered employee" is an individual registered to work as a technician, salesperson, or operator who is supervised by a licensed technician, salesperson, or operator. To become a registered employee, an individual need only satisfy the registration requirement listed above. (*See above, "Licensing and registration requirements for individuals."*)

Background checks and identification requirements for registrants and licensees

Upon receipt of an application for registration or licensure, the bill requires the Director to do both of the following:

(1) Submit the applicant's fingerprint card to the proper state agency and to the Federal Bureau of Investigation for the purpose of obtaining a criminal background check. The bill allows the Director to receive all background information directly.

(2) Issue a temporary license pending the receipt of background information to allow the temporary licensee to act in the capacity of a registered employee for a time period not to exceed 365 days. (Sec. 4749.25(F).)

Upon receipt of an applicant's background information, the Director is required to issue a license to the applicant if the applicant's information does not disqualify the applicant. The Director has discretion to waive any otherwise disqualifying conviction. Disqualifying convictions are determined by the Director in rule. (Secs. 4749.24(A)(7) and 4749.25(G).)

All licenses or registrations issued by the Director must contain a photograph of the licensee or registrant and identify the electronic security system services the licensee is licensed to perform. The licensee or registrant is required to carry the license or registration as prescribed by the Director. (Sec. 4749.25 (H).)

License renewal and registration limitations

Under the bill, electronic security system licenses issued to individuals expire two years after the date of issue or renewal, unless suspended or revoked. Registrations expire one year after the date of issue and may not be renewed. The Director is required to renew a licensee's license if the licensee pays the required fee, as established in rule. If a licensee fails to renew a license prior to its expiration date, the former licensee must obtain a new license.

Continuing education

On or before the last day for license renewal, the bill requires a licensee to have completed, in the preceding two-year period, not less than the following amount of hours of continuing education at a certified training school or in a certified training program:

- (1) For an electronic security system technician, 24 hours;
- (2) For an electronic security system salesperson, eight hours;
- (3) For an electronic security system operator, four hours;

(4) For an electronic security system operator supervisor, eight hours.
(Sec. 4749.29(A) and (B).)

Certified training schools or programs

Prohibitions

The bill prohibits any person from operating or claiming to operate a certified training school or training program unless both of the following conditions are met:

- (1) The Director certifies the training school or program;

(2) Each officer of the business entity applying for certification as an electronic security training school, or the named director of an electronic security training program, holds at least one type of license and acts in compliance with licensing requirements. (Sec. 4749.26(A).) (*See above, "Licensing and registration requirements for individuals."*)

Requirements to obtain certification

The bill requires the Director to certify an electronic security training school or program that does all of the following:

- (1) Applies for certification on forms provided by the Director;
- (2) Requires all of its electronic security instructors to be certified (*see below, "Certified instructors"*);
- (3) Submits proof satisfactory to the Director that each of the officers of the entity applying for certification, or the named director of an electronic security

training program, holds at least one type of electronic security license (*see above*, "**Licensing and registration requirements for individuals**");

(4) Provides for its students or trainees a curriculum sufficient to the Director to meet the training standards required for each type of electronic security system license. (Sec. 4749.26(B).)

Certified instructors

The bill requires every instructor teaching in a certified training school or program to be certified as an instructor. Applications for certification as an electronic security system instructor must be filed on forms provided by the Director and must include work history, instructor experience, and other relevant training. The Director is required to certify all qualified applicants as determined by the Director under rules. If the Director does not issue a certificate to an applicant, the Director is required to supply the applicant with a written explanation of the decision not to certify the applicant. (Sec. 4749.36(C).)

Obtaining a license to conduct business as an electronic security company

The bill requires applicants who wish to operate an electronic security company to submit a fully completed form provided by the Director and to submit to the Director, a certificate of general liability insurance coverage of not less than \$1 million. After any investigation or further inquiry considered necessary by the Director, the Director must issue a license to the applicant who meets the standards for licensure as established by the Director in rule. Each license must contain the licensee's name, license number, the expiration date of the license, the functions that the company is licensed to perform, and any other information the Director determines to be necessary.

Upon payment of a fee established in rule, the Director is required to issue a branch office certificate for each branch office operated by a licensee. Licenses and branch office certificates must be displayed at all times at the place of business in clear and unobstructed public view. The bill prohibits a licensee from operating under a fictitious name unless that name is listed on the licensee's license. The bill requires the licensee to notify the Director, in writing, within 60 days of any change to the information contained in the company's application for licensure. (Sec. 4749.27(A) to (C).)

Insurance requirements

The bill requires a licensee to maintain with the Director, a certificate of general liability insurance coverage of not less than \$1 million. The Director must be named as the certificate holder on the insurance policy for notification of

cancellation or amendment purposes. Upon receipt of information from a policy holder's insurance company that will adversely affect the insured, the bill requires the Director to forward that information to the insured by mail. (Sec. 4749.27(D).)

Supervision and employment background checks

Under the bill, an electronic security system company that provides electronic security operation, dispatching, or monitoring services is required to have at least one operator supervisor physically supervising monitoring any time that monitoring takes place. All persons employed by an electronic security system company who are not required to be licensed or registered, but who have access to security information in the course of business, must submit to and pass a background check in the same manner as registrants and licensees. (Sec. 4749.27(E) and (G).) (*See above, "Licensing and registration requirements for individuals."*)

The Commission must allow any electronic security system company with a current, valid license, timely access to an individual licensee's name, date of birth, social security number, license number, employment history, and status of the license as contained in the registry of individual licensees maintained by the Commission, subject to rules adopted by the Director. (Sec. 4749.27(F).)

Required notifications

The bill requires an electronic security system company to notify the Director of the name and license number of each licensee, or the name of each registered employee within 30 days of when the employee is hired or terminated. (Sec. 4749.27(I).) Within 30 days of the date when a company licensed to provide electronic security services receives information adversely affecting a licensee's eligibility to hold a license, the company is required to notify the Director of the name and license number of the licensee and the information that adversely affects the licensee's eligibility. The bill also requires that within 30 days of when the company fails to perform the company's duties on a regular basis, that it, by certified mail, do both of the following:

- (1) Notify the Director in writing that the company has ceased to do business as an electronic security service company;
- (2) Return all affected electronic security service company licenses and branch certificates to the Director. (Sec. 4749.27.)

License renewal for an electronic security system company

Under the bill, a license to conduct business as an electronic security system company is valid for five years from the date of issue or renewal unless suspended or revoked. The Director is required to renew the license of an electronic security system company in accordance with the standard license renewal procedure act upon payment of the proper renewal fee established in rules. If an electronic security system company fails to renew the license prior to its expiration date, the former licensee must obtain a new license in accordance with the standards set forth for obtaining an initial license. (Sec. 4749.29(C).) (*See above, "Obtaining a license to conduct business as an electronic security company."*)

Reciprocity

The bill allows the Director to waive examination and education requirements and to issue a license to a person who is a resident of another state and the nonresident applicant is licensed by the other state as an electronic security system trainer, operator, salesperson, technician, or the equivalent of one of those designations. The nonresident applicant must submit all of the following to the Director:

- (1) An application for licensure provided by the Director;
- (2) Proof satisfactory to the Director of licensure in the nonresident's state which imposes requirements similar to the license requirements of Ohio;
- (3) The proper fee as established in rule.

The bill allows the Director to issue a nonresident monitoring permit to allow electronic security system monitoring in Ohio by a person with no physical monitoring presence in Ohio if the nonresident monitoring person does all of the following:

- (1) Notifies the Director of its monitoring activities;
- (2) Demonstrates completion of training required for licensees in this state, or, in the opinion of the Director, the completion of the equivalent of that type of training;
- (3) Adheres to the same insurance requirement imposed upon electronic security system companies in this state (*see above, "Insurance requirements"*);
- (4) Pays a fee established in rule. (Sec. 4749.28.)

Prohibited acts and discipline

The bill prohibits any person registered, certified, or licensed under the bill from doing any of the following:

(1) Committing fraud or misrepresentation in applying for a license or certificate;

(2) Being convicted of a crime directly related to the performance of holding a license or certificate including any crime involving dishonesty or corruption;

(3) Engaging in the unauthorized release of material information acquired as a result of electronic security related activities;

(4) Committing fraud, deceit, or material and repeated misconduct related to electronic security services;

(5) Failing to maintain insurance as required (*see above*, "**Insurance requirements**");

(6) Failing or refusing to cooperate with an authorized representative of the agency engaged in an official investigation (*see below*, "**Investigations and charges**");

(7) Failing to adequately supervise electronic security system personnel so that the public health or safety is at risk;

(8) Interfering with an investigation of a disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment;

(9) Failing to return to an employer in a timely manner, uniforms, tools, or other equipment belonging to an employer upon an employer's request.

If a registrant, certificate holder, or licensee commits any of the above listed prohibitions, the Director, in accordance with the Administrative Procedure Act, may impose any of the following disciplinary measures:

(1) Issue a reprimand;

(2) Deny, suspend, or revoke a registration, certificate, or license;

(3) Impose probationary conditions;

(4) Impose a fine not to exceed \$1,000 for each offense.

The bill requires the Director to suspend immediately the registration, certificate, or license of a registrant, certificate holder, or licensee, if the person's record indicates a conviction for any disqualifying offense as defined by the Director in rule, pending the final disposition of a hearing in accordance with the Administrative Procedure Act. (Sec. 4749.32.)

Criminal provisions

The bill establishes criminal penalties for violations of the law governing electronic security system services. Unless a person is otherwise exempt, whoever violates the law governing electronic security system services is guilty of a first degree misdemeanor (not more than six months incarceration and not more than \$1,000 fine). Any person who fails to comply with a sanction imposed by the Director is required, under the bill, to pay a criminal penalty, as determined by a court of competent jurisdiction, of not more than \$25,000, or be imprisoned for up to one year, or both. (Sec. 4749.99(C) and (D).)

Investigations and charges

The bill allows the Director, based on the Director's own initiative or on complaints submitted to the Director in writing, to investigate alleged violations of the laws or rules governing electronic security system services. If the Director determines, upon investigation, that there is reason to believe a violation of the laws or rules governing electronic security system services has occurred, the Director must prepare a statement of charges and serve it upon the person investigated and on the person's employer with a notice that the person may request a hearing in accordance with the Administrative Procedure Act within 30 days of receipt of the charges. Under the bill, failure to request a hearing results in a default. The bill requires that a hearing be scheduled no later than 30 days after the receipt of the request for a hearing. A request for an appeal must be made in writing to the Commission no later than ten days after a decision is rendered. (Sec. 4749.33(A).)

In conducting the investigation, the Director has authority to compel witnesses to testify by subpoena and to require the production of documents pertaining to any matter over which the Director has jurisdiction. If a person fails to comply the Director may make an application to any court of common pleas in Ohio for a contempt proceeding. (Sec. 4749.33(C).)

The bill allows the Director to apply to a court of common pleas for an order enjoining any violation. Upon a showing by the Director that a person has committed, or is about to commit, a violation of the law or rules governing electronic security system services, the court is required to grant an injunction, restraining order, or other appropriate relief. The Director also is allowed to issue

a cease and desist order, which, under the bill, is enforceable in a court of common pleas, if the Director determines that a person is engaged in or believed to be engaged in, activities that are in violation of the laws and rules governing electronic security systems services. To issue a cease and desist order, the Director first must notify the alleged offender and conduct a hearing in accordance with the Administrative Procedure Act. (Sec. 4749.33(C) and (D).)

Exemptions

The bill does not apply to any of the following:

(1) An officer or an employee of the United States, this state, or any political subdivision of either, while the officer or employee is performing official duties;

(2) Equipment manufacturers not providing direct sales, monitoring, installation, or service of electronic security systems to electronic security system users;

(3) Equipment distributors not providing direct sales, monitoring, installation, or service of electronic security systems to electronic security system users;

(4) Persons licensed under the laws of this state governing architects, engineers, or surveyors, who do not provide direct sales, monitoring, installation, or service of electronic security systems to electronic security system users;

(5) Telephone installers or dealers who do not provide direct sales, monitoring, installation, or service of electronic security systems to electronic security system users;

(6) Telemarketing personnel who do not provide direct sales, monitoring, installation, or service of electronic security systems to electronic security system users and who are limited to telemarketing and scheduling appointments;

(7) Electrical, mechanical, or heating, ventilation, air and cooling contractors licensed under Chapter 4740. of the Revised Code or general contractors who provide direct sales, monitoring, installation, or service of electronic security systems to electronic security system users;

(8) Locksmiths who do not provide direct sales, monitoring, installation, or service of electronic security systems to electronic security system users, but who may provide single point alarm functions at an entrance or exit that are not part of an electronic security system provided by the locksmith;

(9) Retail merchants or catalog sales operations not offering or providing consultation, electronic security system site visits, installation, or service of the electronic security systems;

(10) Individual property owners or renters of residential property who personally install an alarm system within the owner's or renter's residence or other building not open to the public;

(11) Hospitals or hospital affiliates monitoring or performing minor maintenance of alarm systems solely for the hospital's own use;

(12) Hospitals or hospital affiliates providing medical alert or medical monitoring services. (Sec. 4749.34.)

Advertising

The bill requires all forms of advertising and all written bids or offers for electronic security system services to a user of such services to include the license number of the electronic security system service provider. (Sec. 4740.30.)

Retention of a certificate, registration, or license

The bill prohibits the sale, transfer, or assignment of a registration, certificate, or license issued under the laws governing electronic security system services without the prior written approval of the Director. (Sec. 4740.31.)

Fees and fines

The bill requires the Director to deposit all fees and fines collected under the laws governing electronic security system services in the Electronic Security Systems Fund which the bill creates in the state treasury. The money from the fund is for the sole use of administration and enforcement of the laws governing electronic security system services. (Sec. 4749.35.)

Effective date

The sections of the bill that require registration, licensure, or certification, take effect January 1, 2002. (Section 3.)

HISTORY

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Introduced	04-11-00	p. 1796

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