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Bill Analysis
Legislative Service Commission

H.B. 41

127th General Assembly
(As Introduced)

Reps. Uecker, J. McGregor, Stebelton, Brown, Flowers, Fende, Wagoner

BILL SUMMARY

- Requires security systems companies to be licensed by the Director of Commerce and their employees who are technicians, salespersons, or operators to register with the Director.
- Creates the seven-person Security Systems Advisory Board within the Department of Commerce and requires the Board to adopt rules governing the licensing and activities of security systems companies and their registered employees.
- Generally prohibits local authorities from enacting any ordinance that conflicts with the bill.
- Creates the Security Systems Fund in the state treasury and requires money in the Fund to be used to pay the costs the Department and Board incur in administering the bill.

CONTENT AND OPERATION

Licensing of security systems companies

The bill prohibits any person from operating a company to sell, install, repair, monitor, or investigate any security system in Ohio unless that person is licensed under the bill. The bill defines "security system" as an assembly of electronic equipment and devices that provides, as its main purpose, the protection of life or property and the detection of threats or violations to the security of the protected premises. "Security system" includes burglary detection, fire detection, locksmith services, access control, and closed-circuit television (see "Definitions," below). A person who operates a security systems company without a license is subject to a fine the Director of Commerce establishes by rule. A person who conducts business as a security systems company in multiple locations in Ohio is

required to have only one license that lists the office address of each such location. Upon payment of the requisite fee, the Director of Commerce must grant appropriate certificates of licensure and branch office certificates to a licensee. Each location from which a licensee offers security system services is required to display a certificate of licensure or a branch office certificate as appropriate. Any person licensed under the bill who changes the primary mailing address of the company as filed must notify the Director of that change within 30 days. (R.C. 4770.02.)

The bill provides that these licensing provisions take effect 480 days after the bill's effective date (Section 2).

Registration of certain employees of security systems companies

Under the bill, no individual may sell, lease, rent, design, plan, install, monitor, maintain, repair, test, or inspect a security system unless that individual is registered under the bill as a technician, salesperson, or operator in one or more of the following specialties: access control system, burglar alarm, closed circuit television, commercial fire alarm, monitoring, or locksmith. An individual who applies for registration may apply for multiple categories of registration so long as the individual meets the qualifications of each such category. The Director is required to facilitate applications and registrations for multiple class registrations. Any employee of a security systems company who is not registered under the bill but who has access to information in the ordinary course of employment that would allow that individual to circumvent security systems is required to meet any background check requirements for registrants that are established under the bill. (R.C. 4770.03.)

The bill provides that these registration provisions take effect 480 days after the bill's effective date (Section 2).

Security Systems Advisory Board

The bill creates the Security Systems Advisory Board in the Department of Commerce, consisting of the following seven voting members: the State Fire Marshal, the Superintendent of the Highway Patrol, and five members appointed by the Governor. Of the appointed members, one must represent businesses that provide monitoring services, one must have a primary business of providing locksmith services, one must be a consumer, and two must be persons who are registered under the bill and have at least five years' experience in the security systems industry. No two persons on the Board may be employed by the same security systems company. (R.C. 4770.06(A).)

Of the initial appointments to the Board, two are for four-year terms, two are for three-year terms, and one is for a two-year term. Thereafter, each term is for four years, ending on the same day of the same month as the term that it succeeds. Each member holds office from the date of appointment until the end of that member's term, and vacancies are filled in the same manner as the original appointments. A member who is appointed to fill a vacancy prior to the expiration of a term holds office for the remainder of that term, and a member continues in office after the expiration of that member's term until a successor takes office. No person may be appointed for more than two consecutive four-year terms. Board members receive no compensation but are reimbursed for actual expenses reasonably incurred in the performance of their duties. (R.C. 4770.06(B) and (C).)

The bill provides that not later than 30 days after the bill's effective date, the Governor must make appointments to the Board. Persons appointed to the Board during the two years following the bill's effective date are not required to register under the bill. (Section 3.)

Adoption of rules by the Board

The bill requires the Board to adopt rules pursuant to the Administrative Procedure Act (R.C. Chapter 119.) that do all of the following:

(1) Establish application procedures and overall requirements for applicants for licensure and registration, including requirements for initial and renewal licensure and registration. These requirements must include training requirements based on measurable objectives with testing to assure proficiency for each of the following specialties: access control systems technician, burglar alarm and fire alarm operator, burglar alarm systems technician, closed circuit television technician, commercial fire alarm technician, locksmith, security systems salesperson, and compliance agent.

(2) Establish procedures to conduct employee background checks and process applications;

(3) Establish and implement standards for the operation of security systems companies;

(4) Establish standards for the operation of schools and instructors for continuing education requirements the Board establishes;

(5) Establish the requirements for the compliance agent that a licensed company is required to designate, and specify the responsibilities of that agent;

(6) Specify information that the Director is required to collect and maintain as part of a registry of all security system personnel and applicants for registration and licensure;

(7) Establish procedures for hearing appeals from the Director's actions and decisions;

(8) Establish the amount of fees required by the bill and the rules;

(9) Designate the crimes that relate to the performance of a licensee or registrant, which must include dishonesty and corruption, that disqualify a person from holding a license or being registered under the bill. (R.C. 4770.07(A)(1) to (9).)

The bill prohibits the Board from adopting any rule that unreasonably restricts competition or the availability of services requiring licenses pursuant to the bill or unnecessarily increases the cost of services without a corresponding benefit. (R.C. 4770.07(B).) The Board must adopt the rules not later than 180 days after the last member is appointed to the Board (Section 4).

Duties of the Director of Commerce

The bill requires the Director of Commerce to issue a new or renewal license or registration to any person who files the proper application form with the Director, pays the appropriate fee, and meets any other requirements that the Board establishes by rule. The Director cannot issue a license to any person who employs an individual who has been convicted of a felony. (R.C. 4770.05(A) and (B).)

The Director may revoke or suspend the license or registration of any person for any of the following reasons:

(1) Knowingly violating any provision of the bill;

(2) Engaging in an activity for which the person is not licensed or permitting another person to engage in an activity for which that person is not licensed;

(3) Negligence or incompetence;

(4) Knowingly misrepresenting, making false promises, or dishonest or illegal dealing;

(5) A continued course of misrepresentation or making false promises individually, through employees or agents, through advertising, or otherwise;



(6) Failure to notify the Department of any change of primary business;

(7) Failure to complete any apprenticeship program required for the holder of a provisional license. (R.C. 4770.05(C).)

The bill prohibits any person, while under suspension or revocation of a license or registration, from being associated with any company licensed under the bill (R.C. 4770.04(C)).

Requirement to carry the certificate of licensure or registration

A person licensed or registered under the bill must carry the person's certificate of licensure or registration while servicing, testing, repairing, or installing a security system for profit and must produce the certificate or registration for inspection upon the request of any code official or other authorized person (R.C. 4770.04).

Persons not covered by the bill

The bill does not apply to any of the following:

(1) A person licensed as an engineer or architect who designs or plans security systems;

(2) A person who services or installs, repairs, rebuilds, rekeys, repins, or adjusts locks in or on safes or vaults;

(3) A licensed electrician who installs conduit and/or wire for a system if the electrician does not connect any device or have access to plans or designs for the complete system. (R.C. 4770.13.)

Enforcement actions by the Director of Commerce

Under the bill, the Director of Commerce may enforce the bill's provisions irrespective of the place or location in which a violation occurs, and may do so upon the complaint of any person or on the Director's own initiative. The Director may cause to be investigated the business and business methods of any licensed or unlicensed person, registered or unregistered person, employee, or applicant for a license or registration. (R.C. 4770.08(A).)

To enforce the provisions of the bill and conduct any investigation authorized by it, the Director may subpoena any person in this state and require the production of any papers the Director determines necessary, administer oaths, and take depositions of any individuals subpoenaed. The Director may employ

field investigators and administrative staff as needed to carry out the purposes of the bill. (R.C. 4770.08(B).)

The Director, acting within the guidelines promulgated by the Board, may take disciplinary action against any licensee, registrant, or unlicensed or unregistered person who violates the bill. The Director may receive any record check information directly from the United States Department of Justice. (R.C. 4770.08(C) and (D).)

Annual report

The bill requires the Director, with the advice of the Board, to file an annual report with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must provide details regarding the cost of administering the bill, the effectiveness of the bill in protecting the public interest, the length of time it takes to conduct criminal background checks, the type and number of licenses and registration permits issued, enforcement information, and any other information that the Director and Board wish to convey. (R.C. 4770.09.)

Reciprocity

Under the bill, the Director may grant licenses and registrations to persons who are registered or licensed in states that the Board determines by rule have registration or licensing requirements that are approximately equal, in substance and intent, to Ohio's requirements. If the Director decides to do so, the Director must register or issue a license to any person who files an application, pays the appropriate fee, and meets any other qualifications the Board establishes by rule. (R.C. 4770.10(A).)

A burglar alarm system company or fire alarm system company located in another state and licensed in Ohio pursuant to this provision is not required to have an office or a compliance agent with a physical presence in Ohio if the company has a representative with a physical presence in Ohio to forward notices to the company's compliance agent. A post office box does not meet the requirements of this provision for a representative with a physical presence in Ohio. (R.C. 4770.10(B).)

Notwithstanding any requirement of the bill to the contrary, any security systems company or compliance agent licensed in a state that the Board determines has licensing requirements approximately equal to those of Ohio may perform monitoring in this state if the company or agent files an application with the Director and pays the appropriate fee (R.C. 4770.10(C)).

Preemption of certain local action

The bill prohibits any municipal corporation, county, or township from enacting any ordinance that conflicts with the bill. This prohibition is not to be construed as prohibiting any political subdivision from enacting an ordinance that establishes regulatory schemes designed to prevent false alarm dispatches, schemes that require the issuance of permits to security system users, or penalties to users for excessive false alarm dispatches. In addition, nothing in the bill is to be construed as preventing a political subdivision from levying a business license fee, business or occupation tax, or other tax upon a security systems company provided that any fees or taxes are levied on all other types of businesses within its boundaries and are based on the physical presence of the business. Finally, nothing in the bill prevents a political subdivision from licensing or regulating a person licensed or registered under the bill when that person is engaged in activities that are not related to security systems or are not governed by the bill. (R.C. 4770.11.)

Security Systems Fund

Under the bill, the Director must deposit all money collected under its provisions in the state treasury to the credit of the Security Systems Fund, which the bill creates. Money credited to the Fund must be used solely to pay costs associated with the administration of the bill and the rules adopted under it. (R.C. 4770.12.)

Definitions

The bill also defines the following terms:

(1) "Access control system" means a combination of electronic equipment and devices that does not emit transmissions requiring public sector response and that is designed and arranged for the control of authorized individuals, vehicles, and materials through entrances and exits of a controlled area or premises.

(2) "Burglar alarm system" means an assembly of equipment and devices designed and arranged to signal an unauthorized entry or attempted entry of a person or an object into the area covered by the system.

(3) "Closed-circuit television" means an in-house television system in which a transmitter (camera) feeds one or more receivers (monitors) through a closed cable or other transmission method.

(4) "Fire alarm system" means an assembly of equipment and devices designed and arranged to signal a fire.

(5) "Locksmith services" means servicing, installing, repairing, rebuilding, rekeying, repinning, adjusting, or installing locks, mechanical or electronic security devices, annunciation devices not designed to require a response by law enforcement, or the opening of a lock by a means not intended by the manufacturer of the device.

(6) "Monitoring" means the retransmission of information received from a security system to the proper individual as required by law or as directed by the user of the security system.

(7) "Operator" means an individual who performs the function of alarm operator, dispatcher, or monitor for a security system.

(8) "Technician" means an individual who performs the installation and repair of security systems. (R.C. 4770.01.)

HISTORY

ACTION	DATE
Introduced	02-20-07

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