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Bill Analysis
Legislative Service Commission

Sub. H.B. 41

127th General Assembly
(As Reported by H. Commerce and Labor)

**Reps. Uecker, J. McGregor, Stebelton, Brown, Flowers, Fende, Wagoner,
D. Stewart, Yuko**

BILL SUMMARY

- Requires a person who wishes to operate a security or life-safety systems company or a company that provides locksmith services in order to obtain a license from the State Fire Marshal to operate those companies, and establishes criminal penalties for operating a company without a license.
- Requires an individual who wishes to engage in specified activities regarding security or life-safety systems or providing locksmith services to obtain the appropriate license from the State Fire Marshal in order to engage in those activities and establishes criminal penalties for engaging in those activities without the appropriate license.
- Creates the Security or Life-Safety Systems Board in the Office of the State Fire Marshal and specifies the membership of the Board.
- Requires the Board to adopt rules governing the licensing of companies and individuals and the activities of companies licensed under the bill.
- Requires the Board to adopt rules establishing requirements to obtain a license, conduct criminal record checks on applicants, and to allow an individual to obtain licenses in multiple specialties or multiple licenses.
- Requires the State Fire Marshal to administer and enforce the bill.
- Specifies disciplinary actions that the State Fire Marshal may take against licensees and the grounds for such action.
- Generally prohibits local authorities from enacting any ordinance that conflicts with the bill.

- Creates the Security or Life-Safety Systems Fund in the state treasury and requires money in the Fund to be used to pay the costs the State Fire Marshal and Board incur in administering the bill.

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CONTENT AND OPERATION

Licensing companies that provide services relating to security or life-safety services or locksmith services

Beginning 480 days after the bill's effective date, the bill prohibits any person from operating a company to sell, install, repair, monitor, or inspect any security or life-safety system for a profit or to provide locksmith services for a profit in Ohio unless that person is licensed pursuant to the bill. Whoever operates such a company 480 days after the bill's effective date without a license is guilty of a third-degree misdemeanor. (Secs. 4770.02(A) and 4770.99 and Section 3.)

The bill defines "security or life-safety 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 a burglary alarm detection system, fire alarm and detection system, access control system, and closed-circuit television (see "Definitions," below). A security or life-safety system does not include an electronic system that is activated by a device that an individual carries on the individual's self that, if activated by the individual, allows the individual to contact or signal outside medical assistance in the case of an emergency. "Locksmith services," under the bill, 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. (Sec. 4770.01(F) and (I).)

Licensing of technicians, salespersons, and operators

Under the bill, beginning 480 days after the bill's effective date, no individual may sell, lease, rent, plan, install, monitor, maintain, repair, test, or inspect a security or life-safety system for a profit or provide locksmith services for a profit unless that individual has the appropriate license issued pursuant to the bill as a technician, salesperson, or operator in one or more of the following specialties:

- (1) Access control system;
- (2) Burglar alarm detection system;
- (3) Closed-circuit television;
- (4) Fire alarm and detection system;
- (5) Locksmith services;
- (6) Monitoring (sec. 4770.02(B) and Section 3).

Whoever engages in the activities described immediately above 480 days after the bill's effective date without the appropriate license is guilty of a third-degree misdemeanor. (Secs. 4770.02(B) and 4770.99 and Section 3.)

Persons not subject to the bill

The bill does not apply to any of the following:



(1) A person licensed as an engineer or architect who only designs, inspects, or plans security or life-safety systems;

(2) A person who services or installs, repairs, rebuilds, rekeys, repins, or adjusts locks in or on safes or vaults and does not provide other types of locksmith services;

(3) An electrician who holds a certificate issued by the State Fire Marshal pursuant to continuing law regarding fire protection or fire fighting equipment (sec. 3737.65, not in the bill) or an electrical contractor licensed under the Construction Industry Licensing Board Law (R.C. Chapter 4740.);

(4) Any other person the Security or Life-Safety Systems Advisory Board exempts pursuant to rules the Board adopts pursuant to the bill (see "Adoption of rules by the Board," below) (sec. 4770.03).

Security or Life-Safety Systems Advisory Board

The bill creates the Security or Life-Safety Systems Advisory Board in the Office of the State Fire Marshal (sec. 4770.04).

Appointment of the Board

The Board consists of seven voting members. One member is the State Fire Marshal, and the Governor appoints the following six members:

- A member who represents businesses that provide monitoring services;
- A member who operates a business that provides locksmith services;
- A member who is a consumer who uses a security or life-safety system;
- A member who is a representative of the Buckeye State Sheriff's Association or its successor organization;
- Two members who are individuals who are licensed pursuant to the bill and who have at least five years experience in the security or life-safety systems industry.

The bill specifies that no two members of the Board may be employed by the same company. Additionally, the bill specifies that notwithstanding the requirement that two members be licensed under the bill, persons appointed to the Board during the two years following the bill's effective date need not be licensed as required under that provision. (Sec. 4770.04(A) and Section 4.)

The Governor must make the initial appointments to the Board not later than 30 days after the bill's effective date. Board members serve four-year terms, and the bill staggers the terms of the initial appointees. A member may not be appointed for more than two consecutive terms of four years, and the bill includes standard provisions for filling vacancies. Board members are not compensated but are reimbursed for actual expenses reasonably incurred in the performance of their duties as members. (Sec. 4770.04(B) and (C).)

Adoption of rules by the Board

The bill requires the Board, not later than 180 days after the appointment of all initial Board members, to adopt rules pursuant to the Administrative Procedure Act that do all of the following:

(1) Establish a separate license for an individual to receive as a technician, salesperson, or operator, and require an individual to obtain a technician, salesperson, or operator license for each specialty listed under "**Licensing of technicians, salespersons, and operators**" above, that the individual wishes to practice;

(2) Establish application procedures and overall requirements for applicants for initial licensure to satisfy that include all of the following:

- A requirement that a company provide its primary business address to the State Fire Marshal to receive a license;
- A requirement that criminal background checks be conducted for each applicant for any type of license;
- Training and examination requirements that are based on measurable objectives and are designed to ensure and accurately test an applicant's proficiency, and that each individual applying for a license as a technician, salesperson, or operator must satisfy for each specialty listed under "**Licensing of technicians, salespersons, and operators**" above, that the applicant wishes to practice;

(3) Establish procedures to have criminal background checks conducted for all applicants and for employees described under "**Duties of a licensed company**" below, and to process applications;

(4) Establish a system that allows an individual who is licensed as a technician, salesperson, or operator to receive additional licenses in multiple specialties;

(5) Establish training and examination requirements that must be satisfied by an individual applying for licensure in multiple specialties pursuant to the system established by the Board under (4) above and require a licensee to satisfy the examination and training requirements established by the Board for each additional specialty that the licensee wishes to practice;

(6) Establish and implement standards for the operation of security or life-safety systems companies and companies providing locksmith services;

(7) Create a provisional license for a person enrolled in an apprenticeship program and who must engage in an activity described under "**Licensing of technicians, salespersons, and operators**" above as a part of that program, establish requirements for an applicant to obtain a provisional license, and require the State Fire Marshal to issue a provisional license to an applicant who meets the requirements established pursuant to the bill;

(8) Establish requirements that each licensee must satisfy to renew each type of license, including continuing education requirements and a requirement that a company must provide its primary business address to the State Fire Marshal;

(9) Establish requirements an institution wishing to offer courses that a licensee may take to satisfy continuing education requirements the Board establishes pursuant to (8) above must satisfy in order to offer courses for which a licensee may receive credit toward completing such continuing education requirements;

(10) Establish requirements that instructors who teach courses that a licensee may take to satisfy continuing education requirements established by the Board must satisfy in order to teach such courses;

(11) Establish requirements that a person must satisfy to be designated a compliance agent by a licensed company as described under "**Compliance agents**" below, including that the person must hold a license issued under the bill as a technician, operator, or salesperson;

(12) Specify the duties of the compliance agent designated by a company;

(13) Specify information that the State Fire Marshal must collect and maintain as part of a registry of licensees and of personnel employed by a company licensed under the bill;

(14) Establish procedures for hearing appeals from the actions and decisions of the State Fire Marshal;

(15) Designate crimes, including dishonesty and corruption, that relate to the performance of a licensee that disqualify a person from holding a license pursuant to the bill;

(16) As the Board determines necessary, specify any person who is exempt from the requirements of the bill in addition to those persons described under "**Persons not subject to the bill**" above;

(17) Establish fees to cover the cost of each examination the Board determines that an applicant for licensure as a technician, salesperson, or operator must successfully pass to receive a license and establish fees that are less than those specified under "**Fees**" below that a licensee must pay to obtain licensure in multiple specialties in accordance with the system established by the Board pursuant to (4) immediately above or to obtain multiple licenses as a technician, salesperson, or operator. (Sec. 4770.05(A).)

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 (sec. 4770.05(B)).

Application for licensure

A company or individual who wishes to be licensed under the bill must submit an application to the State Fire Marshal on a form the State Fire Marshal provides and, except as otherwise provided below, the appropriate initial licensure fees specified in the bill (\$260 for a company, \$40 for an individual) and, if applicable, an examination fee established by the Board. The bill requires the State Fire Marshal to issue a license to any person who files with the State Fire Marshal an application, pays the appropriate fees, and meets all other requirements the Board establishes in rules adopted in accordance with the Administrative Procedure Act. (Secs. 4770.06 and 4770.14(A) and (C).)

The bill specifies that any person conducting business as a security or life-safety systems company in multiple locations in Ohio need have only one license that lists the office address of each location within Ohio (sec. 4770.02(A)). Under the bill, if the Board or the State Fire Marshal receives any information regarding an applicant's customer list, including the name, address, or telephone number of a customer of the applicant, the Board or the State Fire Marshal must keep that information confidential and that information is not considered a public record under the Public Records Law (sec. 149.43, not in the bill) (sec. 4770.05(C)).

Obtaining licenses in multiple specialties and holding multiple individual licenses

An individual applying for licensure as a technician, operator, or salesperson pursuant to the bill may apply for licensure in one or more of the specialties listed under **'Licensing of technicians, salespersons, and operators'** above, in accordance with the system established by the Board under (4) under **"Adoption of rules by the Board"** above, and may apply for one or more types of licenses. The bill requires an individual applying for licensure in multiple specialties or for multiple licenses as a technician, salesperson, or operator to successfully complete the training and examination requirements for each specialty the individual wishes to practice or for each license the individual wishes to receive. If an individual applies for licensure in multiple specialties or applies for multiple types of licenses, and that individual holds a license issued pursuant to the bill as a technician, salesperson, or operator, the State Fire Marshal must charge that individual the reduced fee for licensure and the appropriate examination fee established by the Board in rules the Board adopts. The bill prohibits the State Fire Marshal from charging that individual the initial license fee specified under the bill if the individual holds a license issued pursuant to the bill at the time the individual applies for licensure in multiple specialties or applies for additional licenses as a technician, salesperson, or operator. (Sec. 4770.06.)

Reciprocity

Under the bill, the State Fire Marshal may grant licenses and registrations to a person who is registered or licensed in another state that the Board determines and indicates in rule has registration or licensing requirements that are approximately equal, in substance and intent, to Ohio's requirements and that extends reciprocity similar to that offered in the bill to an individual or company that is licensed in Ohio pursuant to the bill. If the State Fire Marshal decides to do so, the State Fire Marshal 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. (Sec. 4770.07.)

Notwithstanding any requirement of the bill to the contrary, any security or life-safety systems company licensed in a state the Board determines to have licensing requirements approximately equal to those of Ohio may perform monitoring in Ohio if the company files an application with the State Fire Marshal on the form the State Fire Marshal provides and pays the appropriate fee (sec. 4770.07).

Registry

The bill requires the State Fire Marshal to maintain a registry of licensees and of personnel employed by a company licensed under the bill in accordance with the rules adopted by the Board under "**Adoption of rules by the Board**" above, and to make that registry available to the public (sec. 4770.06).

Renewal

A license issued under the bill is valid for one year. The State Fire Marshal must renew licenses pursuant to the Standard Renewal Procedure (R.C. Chapter 4745.; secs. 4745.01 and 4770.09). Any licensee who wishes to renew the licensee's license must submit an application and the appropriate fee specified in the bill (\$150 for a company, \$40 for an individual) to the State Fire Marshal. Upon receipt of a licensee's application and fee, the bill requires the State Fire Marshal to renew a licensee's license if the licensee satisfies the renewal requirements established by the Board in rules the Board adopts. (Secs. 4770.09 and 4770.14.)

Duties of a company licensed under the bill

A company that is licensed under the bill must display a license or a branch office license, as appropriate, at each location from which the licensee offers security or life-safety system services. Under the bill, any person who operates a licensed company who changes the primary mailing address of the company as previously filed after applying for licensure or renewal under the bill must notify the State Fire Marshal of any change of address within 30 days of that change. (Sec. 4770.08.)

Any person who is employed by a licensed company and who is not licensed as a technician, salesperson, or operator pursuant to the bill, but who has access to information in the ordinary course of employment that would allow that individual to circumvent security or life-safety systems, must satisfy any criminal background check requirements for licensees established by the Board in rules the Board adopts (see "**Adoption of rules by the Board**," above). The bill prohibits the State Fire Marshal from issuing a license to any person who employs an individual who has been convicted of a felony. (Sec. 4770.06.)

Compliance agents

The bill defines "compliance agent" as a person employed by a security or life-safety systems company to receive service of process in Ohio and any notices and to perform other duties as specified in rules adopted by the Board (sec. 4770.01(D)). Except as otherwise provided below, each company licensed under

the bill must designate an individual to serve as a compliance agent for that company. The individual designated as the compliance agent for the company must satisfy the requirements established by the Board under rules the Board adopts. (Sec. 4770.08.)

Under the bill, a burglar alarm detection system company or fire alarm and detection system company that has the company's principal place of business located in another state and that is licensed pursuant to the bill is not required to have an office or a compliance agent with a physical presence in Ohio if the state in which the company's principal place of business is located (1) requires the company to designate a person as a compliance agent, (2) requires a person to satisfy requirements that are similar to the requirements the Board establishes pursuant to rules the Board adopts to be a compliance agent, and (3) requires the compliance agent to perform duties that are similar to those duties the Board establishes for compliance agents. The company must designate a representative with a physical presence in Ohio who will receive notices and forward those notices to the company's compliance agent. The bill states that a post office box is not considered a representative with a physical presence in Ohio. If the state where the company's principal place of business is located does not require the company to designate a compliance agent, the company must designate a person who has a physical presence in Ohio as the compliance agent for the company and that person must satisfy the requirements the Board establishes for a person to be a compliance agent. (Sec. 4770.07.)

If the state where a security or life-safety systems company that performs monitoring is licensed has the same requirements for compliance agents as specified in (1) to (3) immediately above, the company is not required to designate a compliance agent in Ohio. If the state where that company is licensed does not require the company to designate a compliance agent, the company must designate a person who has a physical presence in Ohio as the compliance agent for the company and that person must satisfy the requirements the Board establishes for a person to be a compliance agent. (Sec. 4770.07.)

Requirement to carry a license

Under the bill, any individual required to be licensed as a technician, operator, or salesperson pursuant to the bill must carry the individual's license while servicing, testing, repairing, or installing a security or life-safety system for profit or while providing locksmith services for a profit. The individual must produce the license for inspection upon the request of any building official who has jurisdiction over the building in which the licensee is performing activities described under "**Licensing of technicians, salespersons, and operators**" above, or other authorized person designated in rules adopted by the Board in accordance with the Administrative Procedure Act. (Sec. 4770.08.)

Enforcement actions by the State Fire Marshal

Under the bill, the State Fire Marshal may enforce the bill's provisions irrespective of the place or location in which a violation of the bill occurs, and may do so upon the complaint of any person or on the State Fire Marshal's own initiative. The State Fire Marshal may cause to be investigated the business and business methods of any licensed or unlicensed person, employee, or applicant for a license. (Sec. 4770.10.)

To enforce the provisions of the bill and conduct any investigation authorized by it, the State Fire Marshal may subpoena any person in Ohio and require the production of any papers the State Fire Marshal determines necessary, and may administer oaths and take depositions of any individuals subpoenaed. The State Fire Marshal also may employ field investigators. (Sec. 4770.10.)

The State Fire Marshal, acting pursuant to the Administrative Procedure Act and within the guidelines promulgated by the Board, may take disciplinary action against any licensee who violates the bill. The State Fire Marshal, as necessary in the performance of the State Fire Marshal's duties under the bill may receive any criminal background check information directly from the United States Department of Justice. (Sec. 4770.10.)

Disciplinary actions

Under the bill, the State Fire Marshal may revoke or suspend the license of any person for any of the following reasons:

- (1) Knowingly violating any provision of the bill;
- (2) Engaging in an activity described under "**Licensing of technicians, salespersons, and operators**" above for which the person does not hold the appropriate license or permitting another person to engage in such an activity for which that person does not hold the appropriate license;
- (3) Being negligent or incompetent in the performance of the activities for which the licensee holds a license;
- (4) Knowingly misrepresenting information or the licensee's abilities, making false promises, or dishonest or illegal dealing with regard to the performance of the activities for which the licensee holds a license;
- (5) A continued course of misrepresentation or making false promises as described in (4) immediately above individually, through employees or agents, through advertising, or otherwise;

(6) Failure to notify the State Fire Marshal of any change of primary business address as required under the bill (see "*Duties of a company licensed under the bill*," above);

(7) Failure to complete any apprenticeship program required by rule for the holder of a provisional license;

(8) Being convicted of or pleading guilty to an offense that the Board designates in the rules the Board adopts that disqualifies a person from holding a license (see "*Adoption of rules by the Board*," above) (sec. 4770.11(A)).

The bill prohibits any person, while under suspension or revocation of a license, from being employed by or otherwise associated with any company licensed under the bill (sec. 4770.11(B)).

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. Additionally, nothing in the bill prevents a political subdivision from licensing or regulating a person licensed under the bill when that person is engaged in activities that are not related to security or life-safety systems or providing locksmith services or are not governed by the bill. (Sec. 4770.13.)

The bill prohibits the state and the political subdivisions of Ohio from charging license or registration fees to a company or individual licensed under the bill other than as provided in the bill. Nothing in the bill can be construed to prevent a political subdivision from levying a business license fee or vendor permit fee, business or occupation tax, or other tax upon a company licensed under the bill provided that any fees or taxes levied are levied on all other types of businesses within its boundaries and are based on the physical presence of the business. (Sec. 4770.13.)

Annual report

The bill requires the State Fire Marshal, 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 issued, enforcement information, and any other information that the State Fire Marshal and Board wish to convey. (Sec. 4770.12.)

Fees

Under the bill, except as may otherwise be provided below, the State Fire Marshal must charge the following fees:

- (1) For initial licensure for a company, \$260;
- (2) For renewal of a license issued to a company, \$150;
- (3) For initial licensure as a technician, operator, or salesperson, and for renewal of a license as a technician, operator, or salesperson, \$40;
- (4) For an examination required to obtain licensure as a technician, operator, or salesperson, the amount the Board specifies in rules the Board adopts (see "**Adoption of rules by the Board**," above).

The Board, subject to the approval of the Controlling Board, may adopt rules in accordance with the Administrative Procedure Act to establish fees for the issuance or renewal of a license issued to a company or to an individual as a technician, operator, or salesperson in excess of the fees specified in (1) to (3) above if the cost associated with administering and enforcing the bill increases, provided that such fees do not exceed the amounts specified above by more than 50%. (Sec. 4770.14(A) and (B).)

Security or Life-Safety Systems Fund

Under the bill, the State Fire Marshal must deposit all money collected under its provisions in the state treasury to the credit of the Security or Life-Safety 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. (Sec. 4770.14.)

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 detection system" means an assembly of equipment and devices designed and arranged to signal either a threat to an occupant or an unauthorized entry or attempted entry of a person or an object into the area protected by the system.

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

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

(5) "Monitoring" means the transmission and receipt of signals and the retransmission of information received from a security or life-safety system to the proper individual as required by law or as directed by the user of the security or life-safety system.

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

(7) "Technician" means an individual who performs the installation and repair of security or life-safety systems or who provides locksmith services. (Sec. 4770.01.)

HISTORY

ACTION	DATE
Introduced	02-20-07
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