An Act

ENROLLED SENATE
BILL NO. 1042

By: Newberry of the Senate

and

Schwartz of the House

An Act relating to Alarm and Locksmith Industry Act; amending 59 O.S. 2011, Sections 1800.3, 1800.5, 1800.7, 1800.8, 1800.9, 1800.10, 1800.11, 1800.12, and 1800.13, as amended by Sections 4, 7, 9, 10, 11, 12, 13, 14 and 15, Chapter 368, O.S.L. 2012, (59 O.S. Supp. 2012, Sections 1800.3, 1800.5, 1800.7, 1800.8, 1800.9, 1800.10, 1800.11, 1800.12, and 1800.13), which relate to exemptions, powers and duties of the Committee, application and issuance of license, false representations, actions of employees, municipal ordinances, and suspension of license; adding certain exemption; modifying authority of Committee; reducing age for licensure; prohibiting use of certain substances; requiring certain photograph; deleting reference; modifying procedure for license issuance; requiring certain records; making employee acts licensee responsibility; prohibiting municipal licenses; adding acts subject to revocation, suspension and reprimand; making revocation or suspension public record; providing an effective date; and declaring an emergency.

SUBJECT: Alarm and locksmith industry

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1800.3, as amended by Section 4, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.3), is amended to read as follows:

Section 1800.3. The Alarm and Locksmith Industry Act shall not apply to:

1. An officer or employee of this state, the United States or a political subdivision of either, while the employee or officer is engaged in the performance of official duties;

2. An individual who owns and installs alarm devices, mechanical or electronic security devices and locks on the individual's own property or, if the individual does not charge for the device or its installation, installs it for the protection of the individual's personal property located on another's property, and does not install the alarm devices, mechanical or electronic security devices and locks as a normal business practice on the property of another;

3. The sale of alarm or lock systems designed or intended for customer or user installation;

4. The sale, installation, service, or repair of alarm systems or electronic security devices such as electronic access control, closed circuit television, nurse call systems and the like by individuals licensed pursuant to the Electrical ~~Licensing~~ License Act;

5. The locksmith industry activities of tow truck operators from their towing vehicles or repossession agents within the execution of their duties; ~~or~~

6. Locksmith industry activities of persons primarily engaged in selling lumber and other building materials who hold a sales tax permit as a Group One vendor authorized to engage in business within this state pursuant to Sections 1363 and 1364 of the Oklahoma Sales Tax Code; or

7. The solicitation of a potential alarm system customer by a person via telephone or electronic device on behalf of an Oklahoma licensed alarm company for the sale of an alarm system.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 1800.5, as amended by Section 7, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.5), is amended to read as follows:

Section 1800.5. The Alarm and Locksmith Industry Committee shall have the following duties and powers:

1. To assist the Commissioner of Labor in licensing and otherwise regulating persons engaged in an alarm or locksmith industry business;

2. To determine qualifications of applicants pursuant to the Alarm and Locksmith Industry Act;

3. To ~~prescribe and adopt~~ assist the Commissioner in prescribing and adopting forms for license applications and initiate mailing of such application forms to all persons requesting such applications;

4. To assist the Commissioner in disciplinary actions, including the denial, suspension or revocation of licenses as provided by the Alarm and Locksmith Industry Act;

5. To ~~charge and collect~~ assist the Commissioner with charging and collecting such fees as are prescribed by the Alarm and Locksmith Industry Act;

6. To assist the Commissioner in establishing and enforcing standards governing the materials, services and conduct of the licensees and their employees in regard to the alarm and locksmith industry;

7. To assist the Commissioner in promulgating rules necessary to carry out the administration of the Alarm and Locksmith Industry Act;

8. To investigate or assist in investigating alleged violations of the provisions of the Alarm and Locksmith Industry Act and any rules and regulations promulgated thereto;

9. To assist the Commissioner in establishing categories of licenses for the Alarm and Locksmith Industry Act and application requirements for each category including but not limited to individual license, experience requirements, educational requirements, fingerprints, photographs, examinations, and fees;

10. To assist the Commissioner in providing for grievance and appeal procedures pursuant to the Administrative Procedures Act for any person whose license is denied, revoked or suspended; and

11. To exercise such other powers and duties as are necessary to implement the Alarm and Locksmith Industry Act.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 1800.7, as amended by Section 9, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.7), is amended to read as follows:

Section 1800.7. A. Any person applying for a license to engage in an alarm or locksmith industry business pursuant to the Alarm and Locksmith Industry Act shall provide evidence to the Alarm and Locksmith Industry Committee that the individual within this state having direct supervision over the function and local operations of such alarm or locksmith industry business or a branch thereof has the following qualifications:

1. Is at least ~~twenty-one (21)~~ eighteen (18) years of age;

2. Has not been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease, and has not been restored to competency;

3. Is not a habitual user of intoxicating liquors or ~~habit-forming drugs~~ a user of any illegal or illicit drug or controlled substance, including, but not limited to, the non-medical use of any prescription drug or other intoxicating substance;

4. Has not been discharged from the Armed Services of the United States under ~~other than honorable~~ dishonorable conditions;

5. Is of good moral character; and

6. Meets such other standards as may be established by the Commissioner of Labor relating to experience or knowledge of the alarm or locksmith industry.

B. The applicant shall advise the Committee and furnish full information on each individual described in subsection A of this section of any conviction of a felony or any crime involving moral turpitude for which a full pardon has not been granted and furnish a recent photograph of a type prescribed by the Commissioner and two classifiable sets of fingerprints of such individual.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 1800.8, as amended by Section 10, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.8), is amended to read as follows:

Section 1800.8. A. An application for a company license shall include:

1. The address of the principal office of the applicant and the address of each branch office of the applicant located within this state;

2. The name per business location under which the applicant intends to do business as a licensee;

3. A statement ~~as to~~ explaining the extent and scope of the applicant's alarm or locksmith industry business ~~and all other businesses in which the applicant is engaged in this state~~;

4. A ~~recent~~ photograph ~~of a type prescribed by the Commissioner of Labor~~ taken by the Department of Labor or an entity approved by the Department in accordance with the licensing procedures adopted by the Department. If the applicant is a sole proprietor, the photo shall be of the applicant, or if the applicant is an entity, the photo shall be of each officer and of each partner or shareholder who owns an interest in the entity of twenty-five percent (25%) or greater;

5. Two classifiable sets of fingerprints of the applicant, if the applicant is a sole proprietor, or of each officer and of each partner or shareholder who owns a twenty-five percent (25%) or

greater interest in the applicant, if the applicant is an entity; and

6. Such other information, statements or documents as may be required by the Commissioner.

B. An applicant for an individual license shall provide such documents, statements or other information as may be required by the Commissioner, including two classifiable sets of fingerprints of the applicant. The fingerprints may be used for a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

C. Fees for license and renewal issued pursuant to the Alarm and Locksmith Industry Act shall be adopted by the Department of Labor ~~pursuant to Section 1-106.1 of Title 63 of the Oklahoma Statutes~~. Provided, the fees provided for in this subsection shall not exceed Two Hundred Fifty Dollars ($250.00). An applicant shall pay the license fee at the time the applicant makes application. All fees shall be nonrefundable.

SECTION 5. AMENDATORY 59 O.S. 2011, Section 1800.9, as amended by Section 11, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.9), is amended to read as follows:

Section 1800.9. A. Upon ~~making~~ receiving proper application, payment of the proper license fee, and certification of ~~approval~~ recommendation by the Alarm and Locksmith Industry Committee, the Commissioner of Labor shall issue a license to the applicant. The license shall be valid for a one-year term.

B. Renewal of a license shall not prohibit disciplinary proceedings for an act committed prior to the renewal.

C. The Commissioner may adopt a system under which licenses expire on various dates throughout the year. For any change in such expiration dates, license fees shall be prorated on an appropriate periodic basis.

SECTION 6. AMENDATORY 59 O.S. 2011, Section 1800.10, as amended by Section 12, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.10), is amended to read as follows:

Section 1800.10. A. A license shall not be altered or assigned.

B. A company license shall be posted in a conspicuous place in each alarm or locksmith industry business location of the licensee.

C. A company licensee shall notify the Commissioner of Labor within fourteen (14) days of any change of information furnished on the licensee's application for license or on the licensee's license including, but not limited to, change of ownership, address, business activities, or any developments related to the qualifications of the licensee or the individual described in Section 1800.7 of this title. If the licensee for any reason ceases to engage in an alarm or locksmith industry business in this state, the licensee shall notify the Committee within fourteen (14) days of such cessation. If the required notice of cessation is not given to the Committee within fourteen (14) days, the license may be suspended or revoked by the Commissioner on recommendation of the Committee.

D. No person shall represent falsely that the person is licensed or employed by a licensee. Any such action shall constitute a violation of the Alarm and Locksmith Industry Act.

E. Each company licensee shall maintain, update and provide a record containing such information relative to the licensee's employees as may be required by the Commissioner.

SECTION 7. AMENDATORY 59 O.S. 2011, Section 1800.11, as amended by Section 13, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.11), is amended to read as follows:

Section 1800.11. The licensee shall be responsible to the Alarm and Locksmith Industry Committee in matters of conduct of business activities covered by the Alarm and Locksmith Industry Act. The licensee shall be responsible for the activities on the part of the licensee's employees. For purposes of the Alarm and Locksmith Industry Act, improper conduct on the part of any employees which occurs within the scope of employment ~~shall~~ may be considered by the Committee as acts of the licensee.

SECTION 8. AMENDATORY 59 O.S. 2011, Section 1800.12, as amended by Section 14, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.12), is amended to read as follows:

Section 1800.12. A. Any municipality or county may levy and collect reasonable charges for alarm installation connections located in or at a police or fire department which is owned, operated or monitored by the municipality or county. Any municipality or county may require discontinuance of service of any alarm signal device which, due to mechanical malfunction or faulty equipment, causes excessive false alarms and, in the opinion of the appropriate county or municipal official, becomes a detriment to the functions of the department involved. The municipality or county may cause the disconnection of the device until the same is repaired to the satisfaction of the appropriate official; however the municipality or county shall advise the owner or user of the device of the disconnection in advance or as soon as reasonably practicable. The municipality or county may levy and collect reasonable reconnection fees. Mechanical malfunction and faulty equipment shall not include, for the purpose of the Alarm and Locksmith Industry Act, false alarms caused by human error or an act of God.

B. No municipality may adopt any ordinance concerning the licensing of any alarm or locksmith industry business <u>or individual</u> which is or may be licensed pursuant to the Alarm and Locksmith Industry Act.

SECTION 9. AMENDATORY 59 O.S. 2011, Section 1800.13, as amended by Section 15, Chapter 368, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1800.13), is amended to read as follows:

Section 1800.13. A. The Commissioner of Labor on recommendation of the Alarm and Locksmith Industry Committee may suspend any license, upon the conviction of any individual named on the license or on the application for license of a felony, for a period not to exceed thirty (30) days pending a full investigation by the Committee. Such investigation shall be initiated within the thirty-day period of the suspension. A final determination by the Committee shall result in either removal of the suspension or such sanction as the Commissioner considers appropriate, as provided by the Alarm and Locksmith Industry Act.

B. The Commissioner may revoke or suspend any license, reprimand any licensee or deny any application for license or renewal if, in the judgment of the Committee:

1. The applicant or licensee has violated any provision of the Alarm and Locksmith Industry Act or any rule or regulation promulgated thereto;

2. The applicant or licensee has committed any offense resulting in the applicant's or licensee's conviction of a felony or crime involving moral turpitude. Provided, however, if the applicant has had no felony convictions at least ten (10) years prior to making application for a license and the applicant has shown the Committee that the applicant has been rehabilitated, the Committee may recommend the applicant for a license;

3. The applicant or licensee has practiced fraud, deceit, theft, larceny, arson, or misrepresentation;

4. The applicant or licensee has made a material misstatement in any information required by the Committee; or

5. The applicant or licensee has demonstrated incompetence or untrustworthiness in the applicant's or licensee's actions.

C. The Committee shall, before final action under subsection B of this section, provide thirty (30) days of written notice to the applicant or licensee involved, of the action intended and give sufficient opportunity for such person to request an administrative hearing and to be represented by an attorney. A hearing shall be scheduled by the Commissioner if so requested as provided in the Administrative Procedures Act.

D. In the event the Commissioner denies the application for, or revokes or suspends, any license or imposes any reprimand, a record of such action shall be in writing and officially signed by the Commissioner. The original copy shall be filed with the Department of Labor and a copy mailed to the affected applicant or licensee within two (2) days of the final action taken by the Commissioner.

E. Notice of the suspension or revocation of any license ~~by the Commissioner~~ shall be ~~sent by the Committee to law enforcement agencies and fire departments in the principal areas of operation of the licensee~~ made public record.

F. A suspended license shall be subject to expiration and may be renewed as provided by the Alarm and Locksmith Industry Act, regardless of the term of suspension; provided, a renewal shall not remove the suspension term.

G. A revoked license terminates on the date of revocation and cannot be reinstated; provided, the Commissioner may reverse the revocation action. Any licensee whose license is revoked shall apply for a new license and meet all requirements for a license as stated in the Alarm and Locksmith Industry Act prior to engaging in any alarm or locksmith industry business activities. The Committee and the Commissioner shall take action on the new application and may require additional safeguards against such acts by the applicant as may have been the cause of the revocation of the prior license.

SECTION 10. This act shall become effective July 1, 2013.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 12th day of March, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 3rd day of April, 2013.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 4th
day of April, 2013, at 12:21 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 10th
day of April, 2013, at 4:19 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 10th
day of April, 2013, at 5:09 o'clock P M.
By: