

SHORT TITLE: Professions and occupations; relating to regulation of alarm industry; renaming and relocating Alarm Industry Committee; modifying membership and appointing authority and providing for new appointments; granting certain duties and powers to Alarm Industry Board; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 1137

By: Leftwich

AS INTRODUCED

An Act relating to professions and occupations;

amending 59 O.S. 1991, Sections 1800.2, as amended by Section 1, Chapter 295, O.S.L. 1993, 1800.4, 1800.5, as amended by Section 2, Chapter 295, O.S.L. 1993, 1800.6, 1800.7, 1800.8, as amended by Section 3, Chapter 295, O.S.L. 1993, 1800.9, 1800.10, as amended by Section 4, Chapter 295, O.S.L. 1993, 1800.11, 1800.13, 1800.14 and 1800.16 (59 O.S. Supp. 1993, Sections 1800.2, 1800.5, 1800.8 and 1800.10), which relate to regulation of the alarm industry; modifying and deleting definitions; renaming and relocating Alarm Industry Committee; modifying membership and appointing authority and providing for new appointments; providing for promulgation of rules, regulations and standards and for the continued effectiveness of existing rules, regulations and standards until certain action is taken; granting certain duties and powers to Alarm Industry Board; requiring initial appeal of Board actions be to State Fire Marshal Commission; deleting obsolete language; conforming language; abolishing and creating revolving funds and providing for transfer of certain funds; providing administrative penalty; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1800.2, as amended by Section 1, Chapter 295, O.S.L. 1993 (59 O.S. Supp. 1993, Section 1800.2), is amended to read as follows:

Section 1800.2 As used in the Alarm Industry Act:

1. "Alarm industry" means the sale, except as provided in Section 1800.3 of this title, installation, maintenance, alteration, repair, replacement or service of alarm systems or service involving receipt of alarm signals for the purpose of employee response and investigation of such signals or any combination of the foregoing activities;

2. "Alarm system" means one or more devices designed either to detect and signal an unauthorized intrusion or entry or to signal a fire or other emergency condition, which signals are responded to by public law enforcement officers, fire department personnel, private guards or security officers;

3. "Board" means the ~~State Board of Health~~ Alarm Industry Board;

4. ~~"Committee" means the Alarm Industry Committee;~~

5. ~~"Commissioner" means the Commissioner of Health;~~

6. "Licensee" means any person licensed pursuant to the Alarm Industry Act; and

7. 5. "Person" means an individual, sole proprietorship, firm, partnership, association, corporation, or other similar entity.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1800.4, is amended to read as follows:

Section 1800.4 A. ~~There~~ Except as provided in subsection C of this section, there is hereby created the "Alarm Industry Committee", which shall consist of five (5) members. One member

shall be the Commissioner of Health or his designated representative and four members shall be appointed by the State Board of Health within thirty (30) days after the effective date of this act. Three of the appointed members shall have at least five (5) years of experience in the alarm industry or in a closely related field with broad knowledge of the alarm industry. One of the appointed members shall be a lay member. No member shall be employed by the same person as any other member of the Committee.

B. The term of office of each appointed member shall be for four (4) years. Provided, the terms of the first appointed members of the Committee shall be as follows:

1. One member shall be appointed to a term ending May 31, 1987;
2. One member shall be appointed to a term ending May 31, 1988;
3. One member shall be appointed to a term ending May 31, 1989;

and

4. One member shall be appointed to a term ending May 31, 1990.

Provided further, each appointed member shall hold office until his successor is appointed and has qualified under the Alarm Industry Act.

C. 1. Beginning July 1, 1994, the Alarm Industry Committee shall be known as the Alarm Industry Board and shall be located in the Office of the State Fire Marshal. The Board shall consist of five (5) members. One member shall be the State Fire Marshal or his or her designated representative, and four members shall be appointed by the State Fire Marshal Commission as set out in paragraph 2 of this subsection. Three of the appointed members shall have at least five (5) years of experience in the alarm industry or in a closely related field with broad knowledge of the alarm industry. One of the appointed members shall be a lay member. No member may be employed by the same employer.

2. The term of office of each appointed member shall be for four (4) years. Each appointed member shall hold office until a

successor is appointed and has qualified under the Alarm Industry Act. Provided, the terms of the members of the Board first appointed by the State Fire Marshal Commission shall begin as follows:

- a. one member shall be appointed to fill the position of the Alarm Industry Committee member whose term expires on May 31, 1994,
- b. one member shall be appointed to fill the position of the Alarm Industry Committee member whose term expires on term May 31, 1995, upon the expiration of the term or vacation of the position, whichever occurs first,
- c. one member shall be appointed to fill the position of the Alarm Industry Committee member whose term expires on May 31, 1997, upon the expiration of the term or vacation of the position, whichever occurs first, and
- d. one member shall be appointed to fill the position of the Alarm Industry Committee member whose term expires on May 31, 1998, upon the expiration of the term or vacation of the position, whichever occurs first.

D. Members of the Committee may be removed from office by the ~~Board~~ Commission for cause.

~~D.~~ E. Vacancies shall be filled by appointment by the ~~Board~~ Commission for the unexpired term of the vacancy.

~~E.~~ F. The members of the ~~Committee~~ Board shall serve without pay but may be reimbursed for actual expenses pursuant to the State Travel Reimbursement Act.

~~F.~~ G. The ~~Committee~~ Board shall elect from among its membership a ~~chairman~~ chair, ~~vice-chairman~~ vice-chair and secretary to serve terms of not more than two (2) years ending on May 31 of the year designated by the ~~Committee~~ Board. The ~~chairman~~ chair or ~~vice-chairman~~ vice-chair shall preside at all meetings. The ~~chairman, vice-chairman~~ chair, vice-chair and secretary shall

perform such duties as may be decided by the ~~Committee~~ Board in order to effectively administer the Alarm Industry Act.

~~G. H.~~ A majority of ~~Committee~~ Board members shall constitute a quorum to transact official business.

~~H. I.~~ The ~~Committee~~ Board shall meet ~~within thirty (30) days~~ after the effective date of this act and shall meet thereafter at such times as the ~~Committee~~ Board deems necessary to implement the Alarm Industry Act.

~~I. J.~~ The ~~Committee~~ Board shall ~~assist and advise the Commissioner of Health on all matters relating to the formulation of~~ promulgate rules, regulations and standards in accordance with the Alarm Industry Act; provided, rules, regulations and standards promulgated prior to the effective date of this act by the State Board of Health shall remain in effect until amended, repealed or otherwise replaced by rules and standards promulgated by the Board and any orders of the State Commissioner of Health issued pursuant to the Alarm Industry Act shall be enforceable by the Alarm Industry Board.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1800.5, as amended by Section 2, Chapter 295, O.S.L. 1993 (59 O.S. Supp. 1993, Section 1800.5), is amended to read as follows:

Section 1800.5 The Alarm Industry ~~Committee~~ Board shall have the following duties and powers:

1. To ~~assist the Commissioner of Health in licensing and otherwise regulating~~ license and regulate persons engaged in an alarm industry business;
2. To determine qualifications of applicants pursuant to the Alarm Industry Act;
3. To prescribe and adopt forms for license applications and initiate mailing of such application forms to all persons requesting such applications;

4. To ~~assist the Commissioner in the denial, suspension or revocation of~~ deny, suspend, revoke, or refuse to issue or renew licenses as provided by the Alarm Industry Act;

5. To charge and collect such fees as are prescribed by the Alarm Industry Act;

6. To ~~assist the State Board of Health in establishing and enforcing~~ establish and enforce standards governing the materials, services and conduct of the licensees and their employees in regard to the alarm industry;

7. To ~~assist the Board in promulgating~~ promulgate rules necessary to carry out the administration of the Alarm Industry Act;

8. To investigate alleged violations of the provisions of the Alarm Industry Act and of any rules ~~and regulations~~ promulgated by the Board ~~thereunder~~;

9. To ~~assist the Oklahoma State Board of Health in establishing~~ establish categories of licenses for the Alarm Industry Act and application requirements for each category including, but not limited to, individual license, experience requirements, fingerprints, photographs, examinations, and fees;

10. To ~~assist the Commissioner in providing~~ provide for grievance and appeal procedures pursuant to the Oklahoma Administrative Procedures Act for any person whose license is not issued or renewed or is denied, revoked or suspended; provided, initial appeals of the final determinations of the Board shall be made to the State Fire Marshal Commission; and

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

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1800.6, is amended to read as follows:

Section 1800.6 No person shall engage in an alarm industry business in this state without first having obtained a license pursuant to the provisions of the Alarm Industry Act. ~~Provided,~~

~~every person engaged in an alarm industry business in this state on the effective date of the Alarm Industry Act shall have ninety (90) days in which to apply to the Commissioner of Health for a license. A person applying for a license within this ninety-day period may continue business pending a final determination by the Commissioner of his application. Additional time beyond the ninety-day period may be granted by the Commissioner.~~

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1800.7, is amended to read as follows:

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

1. Is at least twenty-one (21) 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;
4. Has not been discharged from the Armed Services of the United States under other than honorable conditions;
5. Is of good moral character; and
6. Meets such other standards as may be established by the Board relating to experience or knowledge of the alarm industry.

B. The applicant shall advise the ~~Committee~~ Board 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 Board and two classifiable sets of fingerprints of such individual.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1800.8, as amended by Section 3, Chapter 295, O.S.L. 1993 (59 O.S. Supp. 1993, 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 the extent and scope of the applicant's alarm 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 Alarm Industry Board 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;

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 Board.

B. An applicant for an individual license shall provide such documents, statements or other information as may be required by the ~~State Board of Health~~, including two classifiable sets of fingerprints of the applicant.

C. Fees for license and renewal issued pursuant to the Alarm Industry Act shall be ~~adopted by~~ established by rules promulgated by the Board pursuant to ~~Section 1-106.1 of Title 63 of the Oklahoma~~

~~Statutes~~ Article I of the Administrative Procedures Act. 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 ~~he makes~~ application is made.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 1800.9, is amended to read as follows:

Section 1800.9 A. Upon making proper application, payment of the proper license fee, and ~~certification of approval by the Committee~~ meeting the requirements of the Alarm Industry Act and rules promulgated pursuant thereto, the ~~Commissioner of Health~~ Alarm Industry Board 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 ~~State Board of Health~~ 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 8. AMENDATORY 59 O.S. 1991, Section 1800.10, as amended by Section 4, Chapter 295, O.S.L. 1993 (59 O.S. Supp. 1993, 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 industry business location of the licensee.

C. A company licensee shall notify the ~~Committee~~ Alarm Industry Board within fourteen (14) days of any change of information furnished on ~~his~~ the application for license or on ~~his~~ the 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 industry business in this state, the licensee

shall notify the ~~Committee~~ Board within fourteen (14) days of such cessation. If the required notice of cessation is not given to the ~~Committee~~ Board within fourteen (14) days, the license may be suspended or revoked by the ~~Commissioner on recommendation of the~~ Committee Board.

D. No person shall represent falsely that he or she is licensed or employed by a licensee.

E. Each company licensee shall maintain a record containing such information relative to ~~his~~ employees as may be required by the Board.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 1800.11, is amended to read as follows:

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

SECTION 10. AMENDATORY 59 O.S. 1991, Section 1800.13, is amended to read as follows:

Section 1800.13 A. The ~~Commissioner of Health on recommendation of the Committee~~ Alarm Industry Board 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~~ Board. Such investigation shall be initiated within the thirty-day period of the suspension. A final determination by the ~~Committee~~ Board shall result in either removal of the suspension or such sanction as the ~~Commissioner~~ Board considers appropriate, as provided by the Alarm Industry Act.

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

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

2. The applicant or licensee has committed any offense resulting in his conviction of a felony or crime involving moral turpitude. Provided, however, if the applicant has had no felony convictions at least five (5) years prior to making application for a license and said applicant has shown the ~~Committee~~ Board that he has been rehabilitated, the ~~Committee may recommend said applicant~~ for Board may issue a license to the applicant;

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

4. The applicant or licensee has made a material misstatement in any information required by the ~~State Board of Health~~; or

5. The applicant or licensee has demonstrated incompetence or untrustworthiness in his actions.

C. The ~~Committee~~ Board 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 a hearing before the ~~Committee and the Commissioner~~ Board and to be represented by an attorney. A hearing shall be scheduled by the ~~Committee~~ Board if so requested.

D. In the event the ~~Commissioner~~ Board denies the application for, or refuses to renew, 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~~ chair of the Board. The original copy shall be filed with the Board and a copy mailed to the

affected applicant or licensee within two (2) days of the final action taken by the ~~Commissioner~~ Board.

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

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

G. A revoked license terminates on the date of revocation and cannot be reinstated. Provided, the ~~Commissioner~~ Board 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 Industry Act prior to engaging in any alarm industry business activities. The ~~Committee and the Commissioner~~ Board 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 11. AMENDATORY 59 O.S. 1991, Section 1800.14, is amended to read as follows:

Section 1800.14 A. 1. There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Alarm Industry Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department pursuant to the Alarm Industry Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing the Alarm Industry Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

2. Effective July 1, 1994, the Alarm Industry Revolving Fund is abolished.

B. 1. There is hereby created in the State Treasury a revolving fund for the Alarm Industry Board, to be designated the "Alarm Industry Board Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received pursuant to the Alarm Industry Act, beginning July 1, 1994. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board for the purpose of implementing the Alarm Industry Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

2. On July 1, 1994, any unencumbered funds remaining in the Alarm Industry Revolving Fund shall be transferred to the credit of the Alarm Industry Board Revolving Fund. Any unexpended funds remaining in the Alarm Industry Revolving Fund after November 15, 1994, shall be transferred to the credit of the Alarm Industry Board Revolving Fund.

SECTION 12. AMENDATORY 59 O.S. 1991, Section 1800.16, is amended to read as follows:

Section 1800.16 A. Any individual or person who is found to be in violation of the provisions of the Alarm Industry Act or of the ~~rules and regulations adopted~~ promulgated by the ~~State Alarm Industry Board of Health~~ State Alarm Industry Board in administration of the Alarm Industry Act, upon conviction, shall be guilty of a misdemeanor and shall be punished by confinement in the county jail for a period not to exceed one (1) year or by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00), or by both such imprisonment and fine.

B. In addition to the penalty provided in subsection A of this section, any individual or person who has been determined by the

Board to have willfully violated any provision of this act, or any rule promulgated pursuant thereto, is liable for an administrative penalty, to be assessed by the Board, of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each day the violation occurs.

SECTION 13. This act shall become effective July 1, 1994.

SECTION 14. 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.

44-2-1926

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