

TEXAS DEPARTMENT OF PUBLIC SAFETY  
PRIVATE SECURITY BUREAU

**ANALYSIS OF HOUSE BILL 2730**

AMENDMENTS TO  
Chapter 1702, Occupations Code

**“THE PRIVATE SECURITY ACT”**

The 81<sup>st</sup> Legislative Session

**BACKGROUND**

House Bill 2730, the Sunset Bill, makes numerous changes to the Private Security Act. In addition to the recommendations of the Sunset Commission, it also incorporates the language of HB 2286 and HB 2287. The following is limited to Articles 4 and 4B of the bill.

**ANALYSIS**

**HB 2287      Computer Repair Exemption – Article 4**

Provides that repair or maintenance of a computer does not constitute an investigation if the review or analysis of computer-based data is performed only to diagnose a computer or software problem and there is no intent to conduct an investigation, thus providing an explicit exemption from licensure under the Private Security Act for computer repair persons (amending Section 1702.104).

**HB 2286      Private Security Bureau “Clean-up” Bill – Article 4B**

Subsection (1-a) of Section 1702.002, “Definitions,” is amended to address a drafting error that created an apparent circularity in the definition of ‘alarm system.’ The amendment clarifies that the exemption provided by subsection (1-a) does not apply (and the device *does* therefore constitute an ‘alarm system’ for purposes of licensure) if the access device, or any device to which it is connected, is used to collect data or make an audio or visual recording that identifies those who use the device.

Section 1702.006, “Foreign Entity Registration,” is added to clarify that licensure under the Private Security Act does not exempt a foreign entity from the registration requirements of Chapter 9, Business Organizations Code.

The amendment of Section 1702.047, “Administrative Staff,” would provide the Department with greater flexibility in its ability to fill the position of administrative assistant to the board.

Section 1702.082, “Complaints,” is amended to require that the Department provide updates to

complainants, and to the subjects of complaints, upon request (Article 4B). The Sunset bill (Article 4) amends the same provision to require periodic updates to complainants (whether or not requested).

Section 1702.104, “Investigations Company,” is amended to expand one part of the statute’s definition of ‘investigations.’ Currently, subsection (a)(1)(A) refers only to information relating to crimes or wrongs done or threatened against governmental entities. The amendment includes in that definition the search for information related to crimes against, or wrongs done to, *persons*.

Section 1702.1056, “Locksmith Company,” is amended to clarify that the *offer* to perform locksmith services is a regulated service. The amendment renders the locksmith provision consistent with the statute’s treatment of other regulated industries.

Sections 1702.110, “Application for License,” and 1702.221, “Registration Required,” are amended to modify the requirements relating to corporate officers by limiting the requirements to those officers who are involved in the security-related aspects of the business, as many officers, particularly those in larger corporations, may have no such involvement. Section 1702.110 is also amended to facilitate the monitoring and inspection of out-of-state licensees.

Section 1702.121, “Termination of Manager,” is amended to provide that upon summary suspension or revocation of a manager’s registration, the company’s termination of that manager (in the capacity as manager) is automatic and not dependent on the company’s notification of the Bureau. Thus, the grace-period during which a company may operate without a manager begins immediately rather than upon notification of the Bureau (as under the current statute and rules).

Section 1702.127, “License Holder Employees; Records,” is amended to enhance the Department’s ability to ensure compliance with the statute and rules by those licensees whose offices are located outside the state.

The amendment to Section 1702.163, “Qualifications for Security Officer Commission,” would assist the Department in ensuring that holders of a security officer commission are capable of exercising sound judgment with respect to the proper use and storage of a handgun.

The provisions relating to “Personal Protection Officer,” Sections 1702.201—1702.206, are amended to clarify the definition of such an officer and the circumstances under which a firearm must be concealed or carried openly.

The amendments to Section 1702.230, “Application For Registration,” are intended to ensure that the Department has sufficient information from prospective registrants prior to their being employed in a regulated capacity, and to clarify the statute’s requirement that an application precede such employment.

Section 1702.282, “Criminal History Check,” is amended to authorize the Department to request that applicants provide the appropriate court documents or other records when necessary to confirm eligibility.

Section 1702.286, “Customer Authorization Required For Certain Locksmith Services,” is renumbered.

Section 1702.322, “Law Enforcement Personnel,” is amended to clarify the scope of the peace officer exemption, confirming that the officer must be employed *directly* by the client or recipient of the security service. The amendment clarifies that the officer is not exempt if he or she is employed by a guard company.

Section 1702.361, “Denial and Disciplinary Actions; Grounds,” is amended to strike potentially confusing language and to confirm that Government Code Chapter 2001 governs the hearings held under this provision.

The amendments to Section 1702.367 clarify the scope of the Department’s administrative subpoena power.

Section 1702.3835, “Application of Deceptive Trade Practices Act,” is a new provision that creates a “tie-in” to Section 17.46, Business & Commerce Code, thus offering the public additional recourse against unlicensed persons who perform or offer to perform regulated services. This amendment will also facilitate enforcement by the Attorney General’s Consumer Protection Division.

The bill also amends two sections of the Penal Code, Sections 46.03, “Places Weapons Prohibited,” and 46.15, “Non-applicability,” to clarify when and how an individual acting as a Personal Protection Officer may carry a firearm (when it must be concealed and when it must be carried openly), in a manner consistent with the proposed amendments to Sections 1702.201—1702.206.

#### **HB 2730      DPS Sunset Bill – Article 4**

Amends multiple provisions of the Private Security Act to provide for "endorsements", which entitled a registrant to perform additional regulated services for a licensed company.

Repeals the exemptions from Ch. 53, Occ. Code (§§1702.004(b); 1702.113(e) and the statutory eligibility criteria (1702.113 - relating to criminal offenses), and requires the Board to establish by rule the specific offenses that are to be disqualifying.

Requires the development and implementation of negotiated rule-making procedures and ADR procedures, creating section 1702.0612.

Repeals statutory fees, authorizing Board to establish fees by rule.

Mandates a standardized penalty schedule, amending section 1702.402.

Amends the complaint procedure provision, 1702.082 (c), to require periodic updates to complainant, in conflict with HB 2286 (above).

Grants to Board authority to establish additional licensing classifications and related qualifications, section 1702.103 (e).

Requires registration prior to employment in a regulated capacity. 1702.221

Requires that pocket cards reflect each endorsement and the expiration date.

Authorizes the Board to develop and administer a jurisprudence exam for applicants.

Provides specific grounds for disciplinary action related to operating outside the scope of or without the proper license or endorsement.

Adds exemption for investigative employees of financial institutions.

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