

# Legislative Analysis

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## SECURITY ALARM SYSTEMS ACT

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**Senate Bill 1291 (Substitute H-4)**

**Senate Bill 1292 (Substitute H-2)**

**Sponsor: Sen. Dave Hildenbrand**

**House Committee: Energy and Technology**

**Senate Committee: Economic Development**

**Complete to 12-5-12**

## A SUMMARY OF SENATE BILLS 1291 & 1292 AS REPORTED BY HOUSE COMMITTEE

Senate Bill 1291 (H-4) would create a new act, known as the Security Alarm Systems Act. This new act would require providers of security alarm systems to annually file a registration statement with the Department of Licensing and Regulatory Affairs (LARA) before operating in the state.

The provider would be required to pay a filing fee as determined by LARA and also to conduct background checks of employees and independent contractors who enter a customers' homes or offices to provide services. A more detailed description follows later.

Senate Bill 1292 (H-2) would amend the private Security Business and Security Alarm Act (MCL 338.1052) to exclude from regulation under that act a system provider (as defined in Sec. 2 of Senate Bill 1291) that is registered under the Security Alarm Systems Act that would be created by Senate Bill 1291. Senate Bill 1292 is tie-barred to Senate Bill 1291.

### FISCAL IMPACT:

Senate Bills 1291(H-4) and 1292 (H-2) would have an indeterminate fiscal impact on the Bureau of Commercial Services (BCS) within the Department of Licensing and Regulatory Affairs (LARA).

Currently, alarm security contractors are licensed under the Private Security Business and Security Alarm Act (1968 PA 330), which also licenses private security guards. The statutorily-established fees for an initial security alarm contractor license is \$500, with an addition \$100 per branch office and a renewal fee of \$250 every two years; 168 licenses were renewed in 2010 with 179 renewed in 2011, generating an average of \$61,825 in annual revenue over those years. While it is not possible to differentiate the expenditures disbursed to license security alarm contractors from those disbursed to license private security guards, the aggregate expenditures disbursed for these two programs greatly exceeded the revenue generated by aggregate licensing fees.

By exempting both alarm systems that are not audible or centrally monitored and system providers as defined in the Security Alarm Systems Act (SB 1291 (H-4)) from licensing requirements under 1968 PA 330, SB 1292 (H-2) would likely reduce the number of licensees, and hence the revenue generated by licensure fees, under the existing law. Expenditures would also likely be reduced, but due to the relatively low number of licensees and relatively fixed costs of administration, not to an equivalent degree.

SB 1291 (H-4) would permit the BCS to establish filing fees in an amount associated with the actual costs of processing and reviewing of the security alarm system provider registration statements that would be required by SB 1291 (H-4). Thus, excluding the nominal expenses to create new forms and develop procedures, the registration requirements established by SB 1291 (H-4) would, ostensibly, be fiscally neutral.

However, given that the BCS currently expends more than it collects in revenues to license security alarm contractors under 1968 PA 330, by permitting security alarm system provider registration fees equivalent to administrative costs, SB 1291 (H-4) would have an indeterminately positive fiscal impact on the BCS to the extent that entities currently licensed under 1968 PA 330 would be registered under SB 1291 (H-4).

## **DETAILED SUMMARY OF SENATE BILL 1291:**

### Section 1 - Establishment of New Act

The new act would be known and cited as the Security Alarm Systems Act.

### Section 2 - Definitions

This section defines several important terms used throughout the bill, including:

"Security alarm system" would mean a detection device or an assembly of equipment and devices that transmits signals to a central monitoring station and is arranged to signal the presence of a hazard that requires urgent attention or to which police are expected to respond. The term includes any electronic system that transmits signals to a central monitoring station and monitors or records various components designed to detect or prevent burglaries, intrusions, theft, or robbery of the protected premises, including but not limited to, an intrusion detection system, video monitoring or recording system, access control system, and 1-way or 2-way audio monitoring systems. The term does not include a fire alarm system or an alarm system that monitors temperature, humidity, or other condition that is not directly related to the detection or prevention of burglaries, intrusions, theft, or robbery of the protected premises.

"System provider" would mean a person that engages in the business of selling, leasing, renting, maintaining, repairing, installing, or otherwise providing security alarm systems to the public at the protected premises or by remote monitoring. It would not include any of the following:

- A person that purchases, rents, or uses an alarm system that is affixed to a motor vehicle.

- A person that owns or conducts a business of selling, leasing, renting, installing, maintaining, or monitoring an alarm system that is affixed to a motor vehicle.
- An alarm system that is operated by the state, a political subdivision of the state, an agency or department of the state, or a political subdivision of the state, or any other governmental agency or department.
- A person that installs a non-monitored alarm system for a business that the person owns, is employed by, or manages.
- A person that only manufactures or sells security alarm systems, unless that person services, installs, monitors, or responds to signals from security alarm systems at the protected premises.
- A person that sells security alarm systems that are designed to be installed and monitored by the customer or an affiliate of or contractor to the person selling the system under certain conditions.
- A security alarm system contractor as defined in Section 2 of the Private Security Business and Security Alarm Act that is required to obtain a license under that act. (The term means a "sole proprietorship, firm, company, partnership, limited liability company, or corporation engaged in the installation, maintenance, alteration, monitoring, or servicing of security alarm systems or who responds to a security alarm system. Security alarm contractor does not include a business that only sells or manufactures security alarm systems unless the business services security alarm systems, installs security alarm systems, monitors or arranges for the monitoring of a security alarm system, or responds to security alarm systems at the protected premises.")

### Section 3 - Requirement to File a Registration Statement

The bill would prohibit anyone from acting as a system provider without first filing a registration statement with the Department of Licensing and Regulatory Affairs (LARA) in accordance with Section 4 of the bill. Additionally, the individual would also have to do one of the following:

- Provide a \$25,000 bond to LARA, conditioned on the applicant's compliance with the act, that is acceptable to the department and is for the benefit of the residents of the state.
- Provide an insurance policy issued by an authorized insurer that names the applicant/registrant and the state as co-insureds, in the following amounts: \$25,000 for property damages, \$100,000 for injury to or death of one person, and \$200,000 for injuries to or deaths of more than one person arising out of the operation of the activity.
- Demonstrate to LARA that the applicant/registrant, or an affiliate, is licensed as a basic local exchange provider under the Michigan Telecommunications Act (1991 PA 179).
- Demonstrate to LARA that the applicant/registrant, or an affiliate, has annual revenue of \$10 million or more.

The bill would allow an individual that is injured by the willful, malicious, and wrongful act of an applicant/registrant, or an agent or employee, to bring an action on a bond or

insurance policy in his or her name to recover damages suffered as a result of the wrongful act.

#### Section 4 - Registration Statements and Employee Background Checks

Registration statements that are filed with LARA would have to include a completed affidavit submitted by the registrant or applicant and signed by an officer or someone authorized to bind the registrant and that affirms all of the following:

- The registrant/applicant's legal name and any alias under which the individual does or will do business in Michigan.
- The address and phone number of the principal place of business and contact information for the individual responsible for ongoing communication with LARA.
- A description of the geographic service area.
- A description of the training provided to employees and independent contractors involved in the installation and monitoring of security alarm systems. LARA would be able to reject a registration statement upon determining the training is not commercially reasonable based on the nature of the equipment installed or monitored.
- A description of the security alarm system services to be provided.
- Acknowledgement that an updated registration statement will be filed each year or sooner if a material change in the required information occurs.

A registrant, applicant, or affiliate, would have to conduct a background check on each employee or independent contractor who, in the normal course of employment, enters a customer's premises to sell, lease, rent, maintain, repair, install, or provide a security alarm system at a protected premises.

The background check would have to include an employee's fingerprints and submission of the prints to the Department of State Police or Federal Bureau of Investigation for the purpose of a criminal history record search. (Note: Typically, a comprehensive criminal history records search would include a search of both the state and federal databases.) A registrant or applicant would not be required to submit the fingerprints of an employee whose prints had previously been submitted for a criminal history record search for the purposes of meeting another state's regulatory requirements and the registrant/applicant has the results of that submission.

An applicant or registrant, or affiliate, would be prohibited from employing or engaging an individual who will enter a customer's premises during the normal course of employment if any of the following apply to the individual:

- Is younger than 18 years old.
- Does not possess a high school diploma or a general education development (GED) certificate, or its equivalent.
- The required background check reveals any of the following:
  - \*\*He or she was convicted of a felony.

\*\*Within the preceding five years, he or she has been convicted of a misdemeanor involving (1) dishonesty or fraud; (2) unauthorized divulging or selling of information or evidence; (3) impersonation of a law enforcement officer or a governmental employee; (4) illegally using, carrying, or possessing a dangerous weapon; (5) two or more alcohol related offenses; (6) controlled substances; (7) an assault; or (8) criminal sexual conduct in the 4th degree.

\*\* He or she has been adjudged insane unless restored to sanity by a court order.

\*\* He or she has any outstanding arrest warrants.

#### Section 5 - Departmental Authority & Filing Fee

The bill would require LARA to accept registration statements as long as all of the requirements are met.

LARA's authority to administer the act would be limited to the powers and duties explicitly provided for in the act. LARA would not have the authority to limit or expand the obligations and requirements provided for in the act or to regulate a person to the extent that the person is providing IP-enabled system services except as provided for in the act.

LARA would be authorized to charge a filing fee it deems appropriate for registration statements. Filing fees would not be able to exceed the actual cost to process and review the registration statement.

#### Section 6 - Preemption of Local Regulation

The provisions of the act would supersede and preempt any rule, regulation, code, or ordinance of any local unit of government relating to the authorization or registration of system providers and their employees or independent contractors. Local units of government would be prohibited from requiring the issuance of a certificate, license, or permit, or otherwise regulating any person providing any form of security alarm services, monitoring, and control services or the installation and maintenance of security alarm systems facilities. However, local units of government would be able to do the following:

- By ordinance, establish decibel limits, lengths, or time period of audible alarm sounding.
- By ordinance, regulate or prohibit automated calls, automated signals, or other automated communications to local units of government, including public safety access points.
- Require a permit for high-voltage electrical or plumbing work to be performed by a system provider.
- Enforce any preexisting rights with respect to the use of its rights-of-way.

Section 7 - Violations

A person found in violation of the act would be guilty of a misdemeanor punishable by up to 180 days imprisonment and/or a \$1,000 maximum fine for each violation.

**POSITIONS:**

AT&T indicated support for the bills. (12-4-12)

ADT Security Services indicated support for the substitutes, but reserves the right to continue to work on the legislation as it moves to the floor. (12-4-12)

The Michigan Association of Police Chiefs indicated a neutral position on SB 1291. (12-4-12)

The Department of Licensing and Regulatory Affairs (LARA) opposes the bills. (12-4-12)

The Burglar & Fire Alarm Association of Michigan opposes the bills. (12-4-12)

At an earlier hearing on 11-8-12, the following associations or organizations testified or indicated a position for the bills:

Frontier Communications supported the bills.

The Michigan Chamber of Commerce supported the bills.

The Telecommunications Association of Michigan supported the bills.

Detroit Regional Chamber supported SB 1291.

Grand Rapids Area Chamber of Commerce submitted written testimony supporting the bills. (11-5-12)

Lansing Regional Chamber submitted written testimony supporting the bills. (11-2-12)

Tyco Integrated Security opposed the bills.

Legislative Analyst: Susan Stutzky  
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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.