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BILL ANALYSIS

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Senate Bills 1291 and 1292 (as enacted)  
Sponsor: Senator Dave Hildenbrand  
Senate Committee: Economic Development  
House Committee: Energy and Technology

**PUBLIC ACTS 580 & 581 of 2012**

Date Completed: 9-16-13

**CONTENT**

**Senate Bill 1291** created the "Security Alarm Systems Act" to do the following:

- Prohibit a person from acting as a system provider without filing a registration statement with the Department of Licensing and Regulatory Affairs (LARA).
- Allow LARA to charge a fee for filing a registration statement.
- Require LARA to accept a registration statement if the applicant or registrant meets the Act's requirements.
- Require a person to provide a bond and insurance policy to LARA in order to act as a system provider.
- Require an applicant or registrant, or an affiliate of the applicant or registrant, to be a basic local exchange provider under the Michigan Telecommunications Act.
- Require a registration statement to include an affidavit that affirms certain information about the registrant's or applicant's business operation, including a description of the training that will be provided to employees or independent contractors to install or monitor security alarm systems.
- Require a registrant, applicant, affiliate, or registered contractor to conduct a criminal background check of each employee or independent contractor who will enter a customer's premises to sell, lease, maintain, repair, install, or otherwise provide a security alarm system.

- Prohibit an applicant, registrant, affiliate, or contractor from employing or engaging individuals if the background check discloses certain information.
- Specify the scope of LARA's authority under the Act.
- Specify that the Act preempts local ordinances or regulations relating to the authorization or registration of system providers and their employees or independent contractors.
- Establish a misdemeanor penalty for a violation of the Act.

**Senate Bill 1292** amended the Private Security Business and Security Alarm Act to exclude from regulation under the Act a system provider registered under the Security Alarm Systems Act.

Senate Bill 1292 was tie-barred to Senate Bill 1291. The bills took effect on January 2, 2013.

**Senate Bill 1291**System Provider

The bill prohibits a person from acting as a system provider in Michigan without first filing a registration statement with LARA. A person that acts as a system provider in multiple locations in Michigan must file only one registration statement. The Department may charge a fee for filing a registration statement in an amount it determines. The fee may not exceed LARA's actual costs to process and review a registration statement.

The Department must accept a registration statement if the requirements of the Security Alarm Systems Act are met.

To act as a system provider, a person also must do one of the following:

- Provide a bond to LARA in the principal amount of \$25,000 that is conditioned on the applicant's or registrant's compliance with the Act, is acceptable to LARA, and is for the benefit of Michigan residents.
- Provide an insurance policy to LARA, in the amount of \$25,000 for property damage, \$100,000 for injury to or death of a person, and \$200,000 for injury to or death of multiple people arising out of the operation of the licensed activity.
- Demonstrate to LARA that the applicant or registrant, or an affiliate of the applicant or registrant, is licensed as a basic local exchange provider under the Michigan Telecommunications Act.
- Demonstrate to LARA that the applicant or registrant, or an affiliate of the applicant or registrant, has annual revenue of \$10.0 million or more.

The insurance policy described above must be issued by an insurer authorized to do business in Michigan and must name the applicant or registrant and the State as coinsureds. An individual injured by the willful, malicious, and wrongful act of an applicant or registrant, or any agent or employee of an applicant or registrant, may bring an action on a bond or insurance policy in his or her own name to recover damages suffered by reason of the wrongful act.

The bill defines "system provider" as a person who engages in the business of selling, leasing, renting, maintaining, repairing, installing, or otherwise providing security alarm systems to the public at a protected premises or by remote monitoring. The term does not include any of the following:

- A person who purchases, rents, or uses an alarm system that is affixed to a motor vehicle.
- A person who 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 who installs a nonmonitored alarm system for a business that the person owns, is employed by, or manages.
- A person who only manufactures or sells security alarm systems, unless the person services, installs, monitors, or responds to signals from security alarm systems at the protected premises.
- A person who sells security alarm systems that are designed to be installed and monitored by the customer (and not the person selling the system) or an affiliate of or contractor to the person selling the system, if the affiliate or contractor is registered under the Act.
- A security alarm system contractor, as defined in the Private Security Business and Security Alarm Act, that is required to obtain a license under that Act.

"Security alarm system" means 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 an intrusion detection system video monitoring or recording system, access control system, and one-way or two-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.

#### Affidavit

A registration statement filed with LARA must include a completed affidavit, submitted by the registrant or applicant and signed by an officer or another individual who is authorized to bind the registrant. The affidavit must affirm all of the following:

- The registrant's or applicant's legal name and any name under which the registrant or applicant does, or will do, business in Michigan that is authorized by LARA.
- The address and telephone number of the registrant's or applicant's principal place of business and contact information for the individual responsible for ongoing communications with LARA.
- A description of the geographic areas in Michigan that the registrant or applicant does or will serve.
- A description of the training the registrant will provide to its employees or independent contractors who are involved in installing or monitoring security alarm systems.
- A description of the security alarm system services that the registrant or applicant does or will provide.
- That the registrant or applicant will file an updated registration statement annually, or sooner if a material change to the information occurs.

The Department may refuse to accept a registration statement if it determines that the employee or contractor training identified in the affidavit is not commercially reasonable considering the nature of the security alarm systems installed or monitored by the registrant or applicant.

#### Background Checks

The bill requires a registrant, applicant, or affiliate, or a registered contractor, to conduct a background check of each employee or independent contractor who, in the normal course of his or her employment or engagement, enters a customer's premises to sell, lease, rent, maintain, repair, install, or otherwise provide a security alarm system at a protected premises. The background check must include the taking of fingerprints and submission to the State Police or FBI for the purpose of a criminal history record search. A registrant, applicant, affiliate, or contractor is not required, however, to submit the fingerprints of an employee or independent contractor if his or her fingerprints were previously submitted for a criminal history record search for the purposes of meeting the requirements of a regulatory authority in another state and the registrant, applicant, affiliate, or contractor has the results of that submission.

An applicant, registrant, affiliate, or contractor may not employ or engage an individual whose background check discloses that he or she is a convicted felon; he or she has been adjudged insane, unless restored to sanity by court order; there are outstanding warrants for his or her arrest; or, within the five-year period preceding the background check, he or she was convicted of a misdemeanor involving any of the following:

- Dishonesty or fraud.
- Unauthorized divulging or selling information or evidence.
- Impersonation of a law enforcement officer or employee of the U.S., the State, or a political subdivision of the State.
- Illegal use, carrying, or possession of a dangerous weapon.
- Two or more alcohol-related offenses.
- Controlled substances under the Public Health Code.
- Assault.
- Fourth-degree criminal sexual conduct.

An applicant, registrant, affiliate, or contractor also may not employ or engage an individual for whom a background check is required, if the individual is under 18 years old or does not have a high school diploma or a general education development (GED) certificate or its equivalent.

#### Scope of the Act

The bill states that LARA's authority to administer the Security Alarm Systems Act is limited to the powers and duties explicitly provided for under the Act. The Department does not have the authority to limit or expand the obligations and requirements provided in the Act or to regulate or control a person to the extent that the person provides security alarm system services, except as provided in the Act.

The Act supersedes and preempts any rule, regulation, code, or ordinance of any local unit relating to the authorization or registration of system providers and their employees or independent contractors. A local unit may not require the issuance of a certificate, license, or permit or otherwise regulate any person that provides any form of security alarm security, monitoring, and control services or the installation and maintenance of facilities associated with

security alarm systems. A local unit may, however, do any of the following:

- By ordinance, establish decibel limits, length, or time period of audible alarm sounding.
- By ordinance, regulate or prohibit automated calls, automated signals, or other automated communications to local units, 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.

#### Violation of the Act

A violation of the Act is a misdemeanor punishable by up to 180 days' imprisonment, and/or a maximum fine of \$1,000, for each violation.

#### **Senate Bill 1292**

The bill specifies that a system provider, as defined in the Security Alarm Systems Act, that is registered under that Act, is not subject to the Private Security Business and Security Alarm Act.

Under the Private Security Business and Security Alarm Act, the definition of "security alarm system" includes any system that can electronically cause an expected response by a law enforcement agency to premises by means of the activation of an audible signal, visible signal, electronic notification, or video signal, or any combination of those signals, to a remote monitoring location on or off the premises. The bill specifies that the term does not include a system that is not monitored by a central monitoring station and does not set off an audible alarm.

MCL 338.2181-338.2187 (S.B. 1291)  
338.1052 (S.B. 1292)

Legislative Analyst: Patrick Affholter

#### **FISCAL IMPACT**

#### **Senate Bill 1291**

The bill will have an unknown, but likely negative, fiscal impact on the Department of Licensing and Regulatory Affairs. Providers

of security alarm systems will have to pay a registration fee as set by the Department. The fee may not exceed the Department's actual costs to review and process a registration, so the bill will likely not introduce any additional uncompensated marginal costs to LARA, but may introduce some new uncompensated fixed costs in the short-term. These costs might include the preparation of forms and the creation of a registrant database. A cost estimate for these fixed costs is not available, but it is likely the costs will be relatively small.

#### **Senate Bill 1292**

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.