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BILL



ANALYSIS

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Senate Bills 1291 and 1292 (as introduced 9-19-12)
Sponsor: Senator Dave Hildenbrand
Committee: Economic Development

Date Completed: 9-20-12

CONTENT

Senate Bill 1291 would create the "Internet Protocol-Enabled Premises Security, Monitoring, and Control Act" to do the following:

- Prohibit a person from acting as a provider of IP-enabled premises security, monitoring, and control systems without first filing a registration statement with the Department of Licensing and Regulatory Affairs (LARA).
- Require a registrant or applicant to affirm that it would conduct background checks and maintain fingerprint records of employees who entered customers' premises.
- Require LARA to review a registration statement and register a registrant or applicant if the statement met the bill's requirements.
- Allow LARA to charge a fee for filing a registration statement.
- Specify that the proposed Act would preempt any local rule, regulation, code, or ordinance relating to the authorization or registration of system providers and system agents.
- Allow local units to require a system user or owner of protected premises to pay an annual registration fee, if the IP-enabled service included direct notification of police or fire department personnel.
- Allow a local unit to assess a fine on a system user or the owner of protected premises for repeated signaling of false alarms.

- Allow a political subdivision to require a permit for high-voltage electrical or plumbing work, if a permit for that work were required by local ordinance in effect on the bill's effective date.

Senate Bill 1292 would amend the Private Security Business and Security Alarm Act to exclude from regulation under the Act a system provider registered under the Act proposed by Senate Bill 1291.

Senate Bill 1292 is tie-barred to Senate Bill 1291.

Senate Bill 1291 would define "internet protocol" or "IP" as transmission control protocol or a successor protocol or technology. "IP-enabled premises security, monitoring, and control system" would mean an integrated system of IP-enabled devices, sensors, or controls, which may include door and window contacts, access control devices, motion detectors, smoke detectors, moisture detectors, cameras, and software installed at a customer's premises or on personal property, and connected in whole or in part by wireless frequency or wire, to perform various remote monitoring functions specified in the bill.

Senate Bill 1291

System Provider & Registration Statement

The bill would prohibit a person from acting as a "system provider" in Michigan without first filing with LARA a registration statement

that met the bill's requirements. A person acting as a system provider in multiple locations in the State would be required to file only one registration statement.

"System provider" would mean a person that engages in the business of selling, leasing, renting, maintaining, repairing, installing, or otherwise providing IP-enabled premises security, monitoring, and control systems to the public at the protected premises or by remote monitoring. The term would 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, or any other governmental agency or department.
- A person that installs a nonmonitored alarm system for a business that the person owns, is employed by, or manages.
- 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.

"System provider" also would not include a business that only sells from a fixed location other than the location of the protected premises, including a retail store, customer call center, telemarketing location, or an internet website, IP-enabled premises security, monitoring, and control systems and IP-enabled sensors or devices that are designed to be installed or monitored by either of the following:

- The customer, and not the business selling the IP-enabled premises security, monitoring, and control systems or IP-enabled sensor or device.
- An affiliate of or contractor to the business selling the IP-enabled system or IP-enabled sensor or device, if the affiliate or contractor installing at the protected premises or monitoring the IP-enabled system or IP-enabled sensor or device were licensed under the proposed Act.

A registration statement would have to include a completed affidavit, submitted by the registrant or applicant and signed by an officer or another individual who was authorized to bind the registrant. The registration statement would have to affirm all of the following:

- The registrant's or applicant's legal name and any name under which the registrant or applicant did or would do business in Michigan, that was 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 the registrant or applicant served or would serve.
- A description of the IP-enabled premises security, monitoring, and control system services that the registrant or applicant provided or would provide.

A registration statement also would have to affirm that the registrant or applicant would conduct background checks and maintain a record of fingerprints for each employee or applicant for employment who, in the normal course of employment, entered a customer's premises to sell, lease, rent, maintain, repair, install, or otherwise provide IP-enabled security, monitoring, and control systems at protected premises.

The Department would have to accept a registration statement filed under the bill if its requirements were met.

LARA Review of Registration Statement

The Department would have to conduct a review of a registration statement and, if it met the bill's requirements, register and provide a registration certificate to the registrant or applicant. The Department would have to complete its determination within 15 business days after the registration statement was filed. If the registration statement or affidavit were not complete, LARA would have to state in its determination all of the reasons the statement or affidavit was incomplete. The registrant or applicant could resubmit a complete application, and LARA would have an additional 15 days after submission. If LARA did not notify the registrant regarding

the completeness of the registration statement and affidavit or issue the certification within the required periods, the statement and affidavit would be considered complete and the certification would be considered issued on the day after that period expired.

The Department's authority to administer the proposed Act would be limited to the powers and duties explicitly provided in the bill. The Department would not have the authority to limit or expand the obligations and requirements provided in the bill or to regulate or control a person to the extent that the person was providing IP-enabled premises security, monitoring, and control services, except as provided in the bill.

The Department could charge a fee, in an amount that it determined, for filing a registration statement. The fee could not exceed LARA's actual costs to process and review a registration statement.

Local Regulations, Fees, & Fines

The proposed Act would supersede and preempt any rule, regulation, code, or ordinance of any political subdivision of the State relating to the authorization or registration of system providers and system agents and their employees. A political subdivision could not require the issuance of a certificate, license, or permit or otherwise regulate any person that provided any form of IP-enabled premises security, monitoring, and control services or the installation and maintenance of facilities associated with those services, except as provided in the bill.

To the extent that IP-enabled premises security, monitoring, and control services included direct notification of emergency dispatch of police or fire department personnel, a political subdivision could enact an ordinance that required a system user or the owner of the protected premises to register and pay an annual registration fee to the local unit of government within a reasonable period of time after the system's installation. If a local unit adopted such an ordinance, the annual registration fee could not exceed the lesser of the following:

- \$50 per year for residential protected premises and \$75 per year for business protected premises.

- The amount reasonably necessary to cover the costs associated with the registration of IP-enabled premises security, monitoring, and control systems.

If the services included direct notification of emergency dispatch of police or fire department personnel, a political subdivision also could enact an ordinance that was designed to discourage false alarm dispatches by establishing regulatory criteria that required the assessment of fines to system users or the owners of protected premises in order to prevent excessive false alarm dispatches. Such an ordinance would be limited to the tracking of false alarms and the administration of a system of fines related to false alarms. If a local unit adopted an ordinance, it could impose a fine on a system user or the owner of protected premises for the signaling of a false alarm if at least three other false alarms had occurred during the immediately preceding 12-month period at the protected premises. The fine could not exceed the following amount, based on the number of other false alarms in the immediately preceding 12-month period:

- \$50, if the protected premises had four or five other false alarms.
- \$75, if the protected premises had six or seven other false alarms.
- \$100, if the protected premises had eight or more other false alarms.

A political subdivision could require a permit for high-voltage electrical or plumbing work to be performed by a system provider or system agent, if a permit for that work were required by a local ordinance in effect on the bill's effective date and were limited to the high-voltage electrical or plumbing activities performed or offered and did not apply to other activities or functions performed or offered by a system provider.

Senate Bill 1292

The bill specifies that a system provider, as defined under Senate Bill 1291, that was registered under the Act proposed by that bill, would not be 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 or off the premises. The bill specifies that the term would not include an IP-enabled premises security, monitoring, and control system as defined in Senate Bill 1291.

MCL 338.1052 (S.B. 1292)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 1291

The bill would have an unknown, but likely negative, fiscal impact on the Department of Licensing and Regulatory Affairs. Providers of IP-enabled premises security would have to pay a registration fee as set by the Department. The fee could not exceed the Department's actual costs to review and process a registration, so the bill would likely not introduce any additional uncompensated marginal costs to LARA, but could introduce some new uncompensated fixed costs in the short-term. These costs could include the preparation of forms and the creation of a registrant database. At this time, a cost estimate for these fixed costs is not available, but it is likely the costs would be relatively small.

The bill would have an indeterminate fiscal impact on local units of government. Local units would be allowed to charge annual registration fees for IP-enabled security systems of up to \$50 for residential premises and \$75 for businesses. Additionally, local units could prescribe fines ranging from up to \$50 to \$100 for false alarms produced by IP-enabled security systems. It is unknown whether the revenue collected from registration fees and false alarm fines would be sufficient to cover the costs associated with false alarms, so the local fiscal impact is indeterminate.

Senate Bill 1292

The bill would 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.