

## **BILL ANALYSIS**

C.S.H.B. 2161  
By: Simmons  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Many business owners, schools, day-care facilities, and homeowners have turned to camera security systems to remotely monitor activities, often through the Internet. There are concerns that current law intended to regulate the installation and monitoring of these systems is insufficient with respect to new and emerging technologies. As a result, it is feared that not all companies that install camera systems are conducting criminal background checks on employees, making it possible for felons, including convicted child molesters or other serious criminals, to install these systems in schools, homes, day-care facilities, and critical infrastructure locations. C.S.H.B. 2161 seeks to prevent people of questionable character from gaining access to such sensitive locations and from using the camera systems for unlawful purposes.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2161 amends the Occupations Code to establish that a person acts as a camera systems company for the purposes of the Private Security Act if the person installs, services at the place of installation, or sells a closed circuit television or still camera system, as defined by the bill, for a fee or offers to perform such a service for a fee. The bill prohibits a person from acting as a camera systems company unless the person holds a license as a security services contractor.

C.S.H.B. 2161 establishes that an individual acts as a camera systems installer for purposes of the Private Security Act if the individual installs, maintains, or repairs a closed circuit television or still camera system for a fee, offers such services to the public for a fee, or advertises such services to the public or represents to the public that the person is a camera systems installer. The bill establishes that an individual mounting or positioning hardware for a closed circuit television or still camera system or connecting that hardware to an electric outlet does not act as a camera systems installer for purposes of the Private Security Act if the individual accomplishes those activities without activation of or access to the recording or transmitting functions of the closed circuit television or still camera system, performs those activities at a premises where the closed circuit television or still camera system is not connected to a separate dedicated recording device, performs those activities for a fee, has been subjected to a local and national background check within the year preceding the date of the installation that demonstrated that the individual has not been previously convicted of a sexual offense or any category of a criminal offense greater than

a Class B misdemeanor, and provides certain verification of the results of the background check on request of the owner or tenant of the residence or business location where the individual performs the installation activities. The bill requires a camera systems installer to obtain the appropriate endorsement required to perform any activity regulated by the Private Security Act and in accordance with related administrative rules but specifies that a person is not required to obtain such a registration or endorsement before January 1, 2016.

C.S.H.B. 2161 authorizes an alarm systems installer to sell, install, maintain, repair, or service a closed circuit television or still camera system. The bill includes monitoring of a closed circuit television or still camera system among the activities performed by an individual under which that individual is considered to be acting as an alarm systems monitor for purposes of the Private Security Act. The bill exempts from the Private Security Act a person who on the person's own property or on property owned or managed by the person's employer installs, changes, or repairs a closed circuit television or still camera system and a retailer, wholesaler, or other person who sells closed circuit television or still camera systems and does not claim to act as a camera systems company or install or service closed circuit television or still camera systems for the public outside the person's premises. The bill replaces the exemption from the Private Security Act for an employee performing investigative services that would otherwise be subject to the act for an entity regulated by the Office of Thrift Supervision or the Federal Deposit Insurance Corporation with an exemption for an employee performing such investigative services for a federally insured financial institution.

C.S.H.B. 2161 exempts from the Private Security Act a person who owns and installs a closed circuit television or still camera system on the person's own property or who installs the system for the protection of the person's personal property located on another person's property and clarifies that this exemption for a person who owns and installs security systems applies if the person does not perform any other activity that requires a license under the act. The bill includes a closed circuit television or still camera system in the exemption from the Private Security Act for certain persons engaged in the construction trade. The bill makes the exemption from the Private Security Act for a person selling certain systems and devices exclusively by e-commerce, over the counter transactions, or mail order applicable to the sale of a closed circuit television or still camera system. The bill exempts from the Private Security Act a local governmental entity that installs or has a licensed contractor install a closed circuit television or still camera system for purposes of public safety.

C.S.H.B. 2161 redefines "electronic access control device" by removing the specification that the controlled area to which the device allows access is an area of a business. The bill removes from the definition of "alarm system" a television camera or still camera system that records or archives images of property or individuals in a public or private area of a residence or business or is monitored by security personnel or services. The bill's provisions apply only to an application for an original or renewal license, registration, or endorsement submitted to the Texas Private Security Board on or after January 1, 2016. The bill requires the Texas Private Security Board, not later than January 1, 2016, to adopt rules to implement the bill's provisions.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2161 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

84R 27769

15.124.1027

Substitute Document Number: 84R 26067

SECTION 1. Section 1702.002, Occupations Code, is amended by amending Subdivisions (1) and (6-a) and adding Subdivisions (4) and (4-a) to read as follows:

(1) "Alarm system" means:

(A) electronic equipment and devices designed to detect or signal:

(i) an unauthorized entry or attempted entry of a person or object into a residence, business, or area monitored by the system; or

(ii) the occurrence of a robbery or other emergency; or

(B) electronic equipment and devices using a computer or data processor designed to control the access of a person, vehicle, or object through a door, gate, or entrance into the controlled area of a residence or business; ~~or~~

~~[(C) a television camera or still camera system that:~~

~~[(i) records or archives images of property or individuals in a public or private area of a residence or business; or~~

~~[(ii) is monitored by security personnel or services].~~

(4) "Camera systems company" means a person who performs the activities described by Section 1702.1057.

(4-a) "Closed circuit television or still camera system" means a device or system of devices that:

(A) records or transmits, including transmission by an intranet or Internet device, an image or series of images;

(B) is monitored by security personnel or an alarm systems monitor for the purposes of security or surveillance;

(C) is not used exclusively:

(i) to view or monitor traffic conditions on public roads;

(ii) to detect motor vehicle violations on public roads;

(iii) for telephone or video conferencing;

(iv) to monitor a manufacturing process;

(v) for a medical purpose by medical practitioners;

(vi) by a courtroom reporter for recording or archiving depositions or testimony;

SECTION 1. Section 1702.002, Occupations Code, is amended by amending Subdivisions (1) and (6-a) and adding Subdivisions (4), (4-a), and (4-b) to read as follows:

(1) "Alarm system" means:

(A) electronic equipment and devices designed to detect or signal:

(i) an unauthorized entry or attempted entry of a person or object into a residence, business, or area monitored by the system; or

(ii) the occurrence of a robbery or other emergency; or

(B) electronic equipment and devices using a computer or data processor designed to control the access of a person, vehicle, or object through a door, gate, or entrance into the controlled area of a residence or business; ~~or~~

~~[(C) a television camera or still camera system that:~~

~~[(i) records or archives images of property or individuals in a public or private area of a residence or business; or~~

~~[(ii) is monitored by security personnel or services].~~

(4) "Camera systems company" means a person who performs the activities described by Section 1702.1057.

(4-a) "Closed circuit television or still camera system" means a device or system of devices that:

(A) records or transmits, including transmission by an intranet or Internet device, an image or series of images for the purposes of security or surveillance; or

(B) is monitored by security personnel or an alarm systems monitor for the purposes of security or surveillance.

(4-b) "Closed circuit television or still camera system" does not include:

(A) a device or system of devices that is used exclusively:

(i) to view or monitor traffic conditions on public roads;

(ii) to detect motor vehicle violations on public roads;

(iii) for telephone or video conferencing;

(iv) to monitor a manufacturing process;

(v) for a medical purpose by medical practitioners;

(vi) by a courtroom reporter for recording or archiving depositions or testimony;

(vii) in the course of an ongoing investigation, when installed by and remaining under the control of a licensed investigations company; or  
(viii) by a law enforcement agency to monitor criminal activity; and

(D) does not include a camera used for videoconferencing that is integrated or attached to:

- (i) a wireless communication device capable of using a commercial mobile service as defined by 47 U.S.C. Section 332;
- (ii) computer equipment, as defined by Section 361.952, Health and Safety Code; or
- (iii) a television, as defined by Section 361.952, Health and Safety Code.

(6-a) "Electronic access control device" means an electronic, electrical, or computer-based device, including a telephone entry system, that allows access to a controlled area [~~of a business,~~] but that is not monitored by security personnel or services and does not send a signal to which law enforcement or emergency services respond. The term does not include:

- (A) a mechanical device, such as a deadbolt or lock; or
- (B) an operator for opening or closing a commercial gate or door or an accessory, such as a fixed or portable transmitter, card-reader, or keypad, if the operator or accessory is used only to activate the gate or door and is not connected to an alarm system.

SECTION 2. Section 1702.102(a), Occupations Code, is amended.

SECTION 3. Subchapter F, Chapter 1702, Occupations Code, is amended by adding Section 1702.1057 to read as follows:

Sec. 1702.1057. CAMERA SYSTEMS COMPANY. A person acts as a camera systems company for purposes of this chapter if the person:

- (1) sells, installs, or services a closed circuit television or still camera system; or
- (2) offers to perform a service described by Subdivision (1).

(vii) in the course of an ongoing investigation, when installed by and remaining under the control of a licensed investigations company;

(viii) by a law enforcement agency to monitor criminal activity; or

(ix) for any purpose other than for the purposes of security or surveillance; and

(B) a camera used for videoconferencing that is integrated or attached to:

- (i) a wireless communication device capable of using a commercial mobile service as defined by 47 U.S.C. Section 332;
- (ii) computer equipment, as defined by Section 361.952, Health and Safety Code; or
- (iii) a television, as defined by Section 361.952, Health and Safety Code.

(6-a) "Electronic access control device" means an electronic, electrical, or computer-based device, including a telephone entry system, that allows access to a controlled area [~~of a business,~~] but that is not monitored by security personnel or services and does not send a signal to which law enforcement or emergency services respond. The term does not include:

- (A) a mechanical device, such as a deadbolt or lock; or
- (B) an operator for opening or closing a commercial gate or door or an accessory, such as a fixed or portable transmitter, card-reader, or keypad, if the operator or accessory is used only to activate the gate or door and is not connected to an alarm system.

SECTION 2. Same as introduced version.

SECTION 3. Subchapter F, Chapter 1702, Occupations Code, is amended by adding Section 1702.1057 to read as follows:

Sec. 1702.1057. CAMERA SYSTEMS COMPANY. A person acts as a camera systems company for purposes of this chapter if the person:

- (1) installs, services at the place of installation, or sells a closed circuit television or still camera system for a fee; or
- (2) offers to perform a service described by Subdivision (1) for a fee.

SECTION 4. Section 1702.221(b), Occupations Code, is amended.

SECTION 5. Subchapter J, Chapter 1702, Occupations Code, is amended by adding Section 1702.2228 to read as follows:

Sec. 1702.2228. CAMERA SYSTEMS INSTALLER. An individual acts as a camera systems installer for purposes of this chapter if the individual:

(1) installs, maintains, or repairs a closed circuit television or still camera system; or

(2) advertises or offers the services under Subdivision (1) to the public or represents to the public that the person is a camera systems installer.

SECTION 4. Same as introduced version.

SECTION 5. Subchapter J, Chapter 1702, Occupations Code, is amended by adding Section 1702.2228 to read as follows:

Sec. 1702.2228. CAMERA SYSTEMS INSTALLER. (a) An individual acts as a camera systems installer for purposes of this chapter if the individual:

(1) installs, maintains, or repairs a closed circuit television or still camera system for a fee;

(2) offers the services described by Subdivision (1) to the public for a fee; or

(3) advertises the services under Subdivision (1) to the public or represents to the public that the person is a camera systems installer.

(b) An individual does not act as a camera systems installer for purposes of this chapter if the individual is mounting or positioning hardware for a closed circuit television or still camera system or connecting that hardware to an electrical outlet and the individual:

(1) accomplishes those activities without activation of or access to the recording or transmitting functions of the closed circuit television or still camera system;

(2) performs those activities at a premises where the closed circuit television or still camera system is not connected to a separate dedicated recording device;

(3) performs those activities for a fee;

(4) has been subjected to a local and national background check within the year preceding the date of the installation that demonstrated that the individual has not been previously convicted of a sexual offense or any category of a criminal offense greater than a Class B misdemeanor; and

(5) provides verification, either personally or through the entity for whom the individual is acting as an agent, that the background check under Subdivision (4) demonstrates that the individual who performs the activities has not been previously convicted of a sexual offense or any category of a criminal offense greater

than a Class B misdemeanor on request of the owner or tenant of the residence or business location where the individual performs the installation activities.

No equivalent provision.

SECTION 6. Section 1702.224(a), Occupations Code, is amended.

SECTION 7. Section 1702.324(b), Occupations Code, is amended to read as follows:

- (b) This chapter does not apply to:
- (1) a manufacturer or a manufacturer's authorized distributor while selling equipment intended for resale;
  - (2) a person engaged exclusively in the business of obtaining and providing information to:
    - (A) determine creditworthiness;
    - (B) collect debts; or
    - (C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;
  - (3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;
  - (4) a person who is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes;
  - (5) a person who:
    - (A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;
    - (B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and
    - (C) does not perform any other act that requires a license under this chapter;
  - (6) a licensed engineer practicing

SECTION 6. Section 1702.223, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) An alarm systems installer may sell, install, maintain, repair, or service a closed circuit television or still camera system.

SECTION 7. Same as introduced version.

SECTION 8. Section 1702.324(b), Occupations Code, is amended to read as follows:

- (b) This chapter does not apply to:
- (1) a manufacturer or a manufacturer's authorized distributor while selling equipment intended for resale;
  - (2) a person engaged exclusively in the business of obtaining and providing information to:
    - (A) determine creditworthiness;
    - (B) collect debts; or
    - (C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;
  - (3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;
  - (4) a person who is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes;
  - (5) a person who:
    - (A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;
    - (B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and
    - (C) does not perform any other act that requires a license under this chapter;
  - (6) a licensed engineer practicing

engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

(10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;

(11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(12) a person who on the person's own property or on property owned or managed by the person's employer:

(A) installs, changes, or repairs a:

(i) mechanical security device; or

(ii) closed circuit television or still camera system;

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device;

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;

(14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm while performing services regulated under Chapter 901;

(15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:

(A) service mechanical security devices for the public outside of the person's premises; or

(B) claim to act as a locksmith;

(16) an employee while performing investigative services that would otherwise be subject to this chapter for an entity regulated by the:

engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

(10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;

(11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(12) a person who on the person's own property or on property owned or managed by the person's employer:

(A) installs, changes, or repairs a:

(i) mechanical security device; or

(ii) closed circuit television or still camera system;

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device;

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;

(14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm while performing services regulated under Chapter 901;

(15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:

(A) service mechanical security devices for the public outside of the person's premises; or

(B) claim to act as a locksmith;

(16) an employee while performing investigative services that would otherwise be subject to this chapter for a federally insured financial institution or an entity

- (A) Texas Department of Insurance;
  - (B) Office of the Comptroller of the Currency [Thrift Supervision];
  - (C) Securities and Exchange Commission;
  - (D) Federal Deposit Insurance Corporation;
- or
- (E) Financial Industry Regulatory Authority;
- (17) a social worker who holds a license issued under Chapter 505 who is engaged in the practice of social work;
- (18) persons licensed under Chapter 1101, an association thereof, their authorized agents, or a multiple listing service, engaged in the business of selling, maintaining, repairing, programming, or placing lockboxes used for accessing real property; ~~[or]~~
- (19) an automobile club that holds a certificate of authority under Chapter 722, Transportation Code, its subcontractor, or a business that provides similar services, that unlocks a vehicle at the request of the owner or operator of the vehicle and that does not otherwise perform a locksmith service; or
- (20) a retailer, wholesaler, or other person who sells closed circuit television or still camera systems and does not:
- (A) install or service closed circuit television or still camera systems for the public outside the person's premises; or
  - (B) claim to act as a camera systems company.

SECTION 8. Section 1702.328, Occupations Code, is amended to read as follows:

Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION EXEMPTIONS. This chapter does not apply to:

- (1) a person who owns and installs a burglar detection or alarm device or a closed circuit television or still camera system on the person's own property or ~~[, if the person does not charge for the device or the installation,]~~ installs the system or device for the protection of the person's personal property located on another person's property and does not, as a normal business practice, install the systems or devices on the property of another, and who does not perform any other act that requires a license

regulated by the:

- (A) Texas Department of Insurance;
  - (B) ~~[Office of Thrift Supervision;~~
- ~~[(C)] Securities and Exchange Commission;~~
- ~~[(D) Federal Deposit Insurance Corporation;]~~ or
- (C) ~~[(E)]~~ Financial Industry Regulatory Authority;
- (17) a social worker who holds a license issued under Chapter 505 who is engaged in the practice of social work;
- (18) persons licensed under Chapter 1101, an association thereof, their authorized agents, or a multiple listing service, engaged in the business of selling, maintaining, repairing, programming, or placing lockboxes used for accessing real property; ~~[or]~~
- (19) an automobile club that holds a certificate of authority under Chapter 722, Transportation Code, its subcontractor, or a business that provides similar services, that unlocks a vehicle at the request of the owner or operator of the vehicle and that does not otherwise perform a locksmith service; or
- (20) a retailer, wholesaler, or other person who sells closed circuit television or still camera systems and does not:
- (A) install or service closed circuit television or still camera systems for the public outside the person's premises; or
  - (B) claim to act as a camera systems company.

SECTION 9. Section 1702.328, Occupations Code, is amended to read as follows:

Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION EXEMPTIONS. This chapter does not apply to:

- (1) a person who owns and installs a burglar detection or alarm device or a closed circuit television or still camera system on the person's own property or ~~[, if the person does not charge for the device or the installation,]~~ installs the system or device for the protection of the person's personal property located on another person's property and does not, as a normal business practice, install the systems or devices on the property of another, and who does not perform any other act that requires a license

under this chapter;

(2) a person in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device or a closed circuit television or still camera system if:

(A) the person is a party to a contract that provides that:

(i) the installation will be performed, ~~[under the direct supervision of, and]~~ inspected, and certified by[;] a person licensed to install and certify the alarm or detection device or closed circuit television or still camera system; and

(ii) the license holder assumes full responsibility for the installation of the system [~~alarm~~] or [~~detection~~] device; and

(B) the person does not service or maintain alarm systems, electronic access control devices, locks, closed circuit television or still camera systems, or detection devices;

(3) a person who sells or installs automobile burglar alarm devices and who does not perform any other act that requires a license under this chapter; [~~or~~]

(4) a person who sells exclusively by e-commerce, over the counter transactions, or mail order, alarm systems, electronic access control devices, locks, closed circuit television or still camera systems, or detection devices and who does not perform any other act that requires a license under this chapter; or

(5) a local governmental entity that installs or has a licensed contractor install a closed circuit television or still camera system for purposes of public safety.

SECTION 9. (a) The changes in law made by this Act to Chapter 1702, Occupations Code, apply only to an application for an original or renewal license, registration, or endorsement submitted to the Texas Private Security Board on or after January 1, 2016. An application submitted before January 1, 2016, is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

(b) The Texas Private Security Board shall adopt rules to implement the changes in law made by this Act not later than January 1, 2016. A person is not required to obtain a

under this chapter;

(2) a person in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device or a closed circuit television or still camera system if:

(A) the person is a party to a contract that provides that:

(i) the installation will be performed, ~~[under the direct supervision of, and]~~ inspected, and certified by[;] a person licensed to install and certify the alarm or detection device or closed circuit television or still camera system; and

(ii) the license holder assumes full responsibility for the installation of the system [~~alarm~~] or [~~detection~~] device; and

(B) the person does not service or maintain alarm systems, electronic access control devices, locks, closed circuit television or still camera systems, or detection devices;

(3) a person who sells or installs automobile burglar alarm devices and who does not perform any other act that requires a license under this chapter; [~~or~~]

(4) a person who sells exclusively by e-commerce, over the counter transactions, or mail order, alarm systems, electronic access control devices, locks, closed circuit television or still camera systems, or detection devices; or

(5) a local governmental entity that installs or has a licensed contractor install a closed circuit television or still camera system for purposes of public safety.

SECTION 10. Same as introduced version.

registration or endorsement under Section 1702.2228, Occupations Code, as added by this Act, before January 1, 2016.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 11. Same as introduced version.