

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 41 Alarm System Contracting  
**SPONSOR(S):** H. Gibson; Legg  
**TIED BILLS:** none **IDEN./SIM. BILLS:** SB 442 (s)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee		Bond	Kramer
2) Business Regulation Committee			
3) Justice Council			
4) _____			
5) _____			

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**SUMMARY ANALYSIS**

The Electrical Contractors Licensing Board (ECLB) within the Department of Business and Professional Regulation (DBPR) regulates fire alarm system contractors, and their employees. The Division of State Fire Marshal within the Department of Financial Services (DFS) may inspect any building or fire alarm system regarding the issues of fire safety, prevention, and control.

The bill amends the law related to the State Fire Marshall to provide that it is a first degree misdemeanor for any person to install, service, test, repair, improve, or inspect a fire alarm system without being in compliance with the provisions of s. 489.5185, F.S., which relates to certain requirements of alarm system agents.

There are technical concerns and perhaps unintended consequences of this bill as written. See Other Comments herein.

This bill does not appear to have a fiscal impact on state or local governments.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0041.CRJU.doc  
**DATE:** 1/10/2005

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - This bill may increase the regulatory responsibilities of the State Fire Marshal and local law enforcement agencies. This bill may also limit currently legal activities of individuals.

Promote personal responsibility - This bill creates a sanction for potentially injurious behavior.

Maintain public security - This bill may increase the physical security of private and public buildings.

#### B. EFFECT OF PROPOSED CHANGES:

Chapter 633, F.S., creates the office of the State Fire Marshal, provides for fire prevention and control, and designates the office of the State Fire Marshal as the state entity responsible for inspection of buildings and alarm systems for compliance with firesafety laws and regulations. The State Fire Marshal licenses contractors who specialize in the installation and repair of fire suppression equipment.<sup>1</sup> See generally s. 633.061-.083, F.S. The State Fire Marshal is under the Chief Financial Officer.

Part II of ch. 489, F.S., provides for licensing and regulation of electrical and alarm system contracting by the Department of Business and Professional Regulation. There are 20 exceptions to the licensing law, by which certain persons may install or repair a fire alarm system without obtaining a license. The Department of Business and Professional Regulation is under the Governor.

There is a necessary interrelationship between fire alarm systems and fire suppression systems. Typically, a fire alarm system may trigger a fire suppression system, and the triggering of a fire suppression system will cause a fire alarm system to activate. Both minimize loss to life and property from fire. Recognizing the interrelationship, current law provides that the State Fire Marshal must approve alarm systems for installation, may inspect installed alarm systems, and may order an alarm system contractor to correct defects in an installed alarm system. See ss. 633.70-.701, F.S.

Section 633.702, F.S., provides criminal penalties for certain actions regarding fire alarm systems. It is a second degree misdemeanor for any person to sell an alarm system that is not approved. It is a first degree misdemeanor for a licensed fire alarm system contractor to make an alarm system inoperative (except as necessary for repair or testing); to improperly install, service, test, repair, improve, or inspect a fire alarm system; or to allow or assist unlicensed practice of alarm system contracting. Subsections (1), (2) and (3) of s. 489.531, F.S., provide criminal penalties for the unlicensed practice of alarm system contracting.

Section 489.5185, F.S., provides requirements for fire alarm system agents (employees of a licensed fire alarm system contractor). An agent must be 18 years of age, must complete educational requirements, and must pass a criminal history background check. The contractor must provide an identification card to each agent, which card must be carried while performing any licensed work. Periodic continuing education and criminal history background checks are required.

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<sup>1</sup> Fire suppression equipment includes sprinkler systems, fixed fire extinguishers, and portable fire extinguishers.

### Effect of proposed changes

The bill amends s. 633.702, F.S., to provide that it is a first degree misdemeanor for any person to install, service, test, repair, improve, or inspect a fire alarm system unless the person complies with s. 489.5185, F.S.

The effect of the reference to s. 489.5185, F.S., is that this bill provides that it is a misdemeanor to install or service a fire alarm system unless authorized as a fire alarm system agent. It is also a misdemeanor to fail to carry the identification card, or to fail to attend continuing education classes.

As worded, the 20 exemptions to the alarm system licensing law, set forth at s. 489.503, F.S., do not apply to the newly created crime. Accordingly, it appears that this bill may have the practical effect of repealing the exceptions. As worded, this bill also makes it illegal for a licensed contractor to install or service a fire alarm system unless the contractor also qualifies as a fire alarm system agent.

#### C. SECTION DIRECTORY:

Section 1 amends s. 633.702, F.S., to add a misdemeanor offense.

Section 2 provides an effective date of October 1, 2005.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. See fiscal comments.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. See fiscal comments.

2. Expenditures:

None. See fiscal comments.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

#### D. FISCAL COMMENTS:

Any expansion of the criminal laws has the potential to increase state costs, primarily for state attorneys and public defenders. Any expansion of the criminal laws has the potential to increase local government revenues in the form of fines and court costs, and has the potential to increase local government expenditures for law enforcement purposes. It is anticipated that so few individuals are likely to be prosecuted under this section that this bill is unlikely to create a measurable increase in revenues or expenditures.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill may perhaps have unintended consequences. For instance:

- Because this bill does not incorporate the exceptions found in s. 489.503, F.S., a number of persons who currently may service or install fire alarm systems without being a contractor or fire alarm system agent would no longer be allowed to do so.<sup>2</sup>
- Because this bill only authorizes a fire alarm system agent to install or service a fire alarm system, a licensed contractor would not be authorized to do so unless the licensed contractor also qualifies himself or herself as an alarm system agent.
- Section 489.5185(4)(c), F.S., requires a licensed alarm system agent to carry a license card while performing any fire alarm system work. A normally authorized fire alarm system agent would commit a misdemeanor simply by forgetting to have the identification card.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

n/a

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<sup>2</sup> For instance, one exception allows a homeowner to work on his or her own home. Taken to its extreme, this bill as written would require a homeowner to employ a fire alarm system contractor to replace the battery in a smoke detector.