

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	7 Y, 0 N, w/CS	Bond	Kramer
2) Business Regulation Committee	16 Y, 0 N	Livingston	Liepshutz
3) Justice Council	8 Y, 0 N	Bond	De La Paz
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

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 Electrical Contractors Licensing Board (ECLB) within the Department of Business and Professional Regulation (DBPR) regulates fire alarm system contractors, and their employees.

The bill amends the law related to the State Fire Marshall to provide that it is a first degree misdemeanor for a person to install, service, test, repair, improve, or inspect a fire alarm system unless that person is authorized by law to perform the service, or a statutory exception applies.

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.

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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.

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

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.¹ 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 are designed to 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.

Current contractor licensing law provides that only the holder of valid and current active license as a certified unlimited electrical contractor, as defined in part II of chapter 489, F.S., the holder of valid and current active license as a licensed fire alarm contractor, as defined in part II of chapter 489, F.S., or a person authorized to act as a fire alarm system agent, pursuant to s. 489.5185, F.S.,² may lawfully install, service, test, repair, improve, or inspect a fire alarm system. There are exemptions to the licensing law provided at s. 489.503, F.S.³

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

¹ Fire suppression equipment includes sprinkler systems, fixed fire extinguishers, and portable fire extinguishers.

² 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.

³ One exception provides that an individual working on one's own home is exempt from licensing, and thus may lawfully perform such work. This bill, as first filed, would have prohibited a homeowner from installing a smoke detector in his or her own home. An amendment at the first committee of reference changed this. The exemptions at s. 489.503, F.S., adopted by this bill, include a provision that allows a person to install and service a fire alarm system, including a typical residential smoke detector, in his or her own home without violating the law.

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.

Effect of Bill

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 is the holder of valid and current active license as a certified unlimited electrical contractor, as defined in part II of chapter 489, F.S.;
- The person is the holder of valid and current active license as a licensed fire alarm contractor, as defined in part II of chapter 489, F.S.;
- The person is authorized to act as a fire alarm system agent, pursuant to s. 489.5185, F.S.; or
- The person is exempt pursuant to s. 489.503, F.S.

A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000, see ss. 775.082(4)(a) and 775.083(1)(d), F.S. Court costs and other fees may also be charged to an offender.

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:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 26, 2005, the Committee on Criminal Justice adopted one amendment to this bill, which amendment clarified the bill and removed unintended consequences discussed in a previous analysis. The bill was then reported favorably with a committee substitute.