

2017 Regular Session

SENATE BILL NO. 211

BY SENATOR GARY SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/PUNISHMENT. Creates the crime of engaging in life safety and property protection contracting without authority. (8/1/17)

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AN ACT

To amend and reenact R.S. 40:1563.1(A)(20) and (C), (D), and (E) and to enact R.S. 14:206.1 and R.S. 40:1563.1(A)(21) and (F), relative to life safety and property protection contracting; to create the crime of life safety and property protection contracting without authority; to provide the elements of the crime; to provide penalties; to provide relative to the authority of the fire marshal to investigate the crime; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:206.1 is hereby enacted to read as follows:

§206.1. Engaging in life safety and property protection contracting without authority prohibited; penalty

A. It shall be unlawful for any person to engage in the business of life safety and property protection contracting, as defined in R.S. 40:1664.3, unless he holds an active license as required by R.S. 40:1664.4.

B. It shall be sufficient for the indictment, affidavit, or complaint to allege that the accused unlawfully engaged in life safety and property protection contracting without authority from the office of state fire marshal.

1 **C.(1) Any person violating this Section shall be guilty of a misdemeanor**
 2 **and, upon conviction, shall be imprisoned for not more than ninety days, fined**
 3 **not more than five hundred dollars per day of the violation, or both.**

4 **(2) Notwithstanding any action taken by the office of state fire marshal,**
 5 **any person who does not possess a license as required by R.S. 40:1664.4, and**
 6 **who violates any provision of this Section and causes harm or damage to**
 7 **another in excess of five hundred dollars, upon conviction, shall be imprisoned**
 8 **for up to six months, fined not less than five hundred dollars nor more than five**
 9 **thousand dollars, or both.**

10 **(3) Any fine assessed and collected pursuant to this Subsection shall be**
 11 **remitted to the Louisiana Life Safety and Property Protection Trust Fund**
 12 **provided for in R.S. 40:1664.9(J).**

13 Section 2. R.S. 40:1563.1(A)(20) and (C), (D), and (E) are hereby amended and
 14 reenacted and R.S. 40:1563.1(A)(21) and (F) are hereby enacted to read as follows:

15 §1563.1. Authority to make arrests and carry firearms; arson task force

16 A. The fire marshal, the first assistant fire marshal, each deputy fire marshal,
 17 certified local authorities, and state or municipal arson investigators, while engaged
 18 in the performance of their duties as such, shall have the authority to investigate and
 19 cause the arrest of individuals suspected of having violated the following criminal
 20 laws:

21 * * *

22 (20) **R.S. 14:206.1, engaging in life safety and property protection**
 23 **contracting without authority.**

24 (21) Any other criminal laws making unlawful an attempt or conspiracy to
 25 commit the foregoing offenses.

26 * * *

27 C. **The fire marshal, the first assistant fire marshal, and each deputy fire**
 28 **marshal shall have the authority to investigate and cause the arrest of any**
 29 **person suspected of having committed any offense connected to the investigation**

1 of any of the offenses enumerated in Subsection A of this Section, or connected
2 to the investigation of a burn injury report submitted to the office of state fire
3 marshal in accordance with R.S. 14:403.4.

4 D. The fire marshal shall issue a commission to any state arson investigator
5 who qualifies as P.O.S.T. certified to carry firearms allowing him to carry and use
6 firearms and to arrest individuals suspected of violating the crimes enumerated in
7 this Section.

8 ~~D.~~ E. The governing authority of a political subdivision may authorize the
9 chief of each fire protection district, each fire department, and each volunteer fire
10 department which is within that political subdivision to issue a commission to any
11 local arson investigator allowing him to carry and use firearms and to arrest
12 individuals suspected of violating crimes enumerated in this Section. The issuance
13 of a commission pursuant to this Subsection, the powers granted by those
14 commissions, and the use of firearms by the persons to whom those commissions are
15 issued shall be subject to all of the following provisions:

16 (1) The chief of each fire protection district, each fire department, and each
17 volunteer fire department who issues a commission to a local arson investigator may
18 require that the local arson investigator be certified by the ~~Council on Peace Officer~~
19 ~~Standards and Training (P.O.S.T.)~~ P.O.S.T. Council or be qualified by the P.O.S.T.
20 Council, or both.

21 (2) The chief of each fire protection district, each fire department, and each
22 volunteer fire department who requires that local arson investigators to whom that
23 chief issues commissions be P.O.S.T. certified or P.O.S.T. qualified, or both, shall
24 pay the cost of providing to those local arson investigators the training necessary to
25 obtain the P.O.S.T. certification or the P.O.S.T. qualification, or both.

26 (3) Local arson investigators who are required by their chief to be P.O.S.T.
27 certified or P.O.S.T. qualified, or both, are specifically authorized to attend any
28 school or training course which is operated by a commercial entity or which is
29 operated by a public agency and which is open to peace officers from more than one

1 law enforcement agency. Each person or agency operating a school or a training
2 course which is attended by local arson investigators shall award the appropriate
3 document or documents to each local arson investigator who successfully completes
4 the requirements for P.O.S.T. certification or for P.O.S.T. qualification, or both. The
5 Louisiana Commission on Law Enforcement and the Council on Peace Officer
6 Standards and Training shall make the provisions which are necessary to enable local
7 arson investigators to attend the required schools and training courses and for those
8 local arson investigators who successfully complete the requirements for P.O.S.T.
9 certification or P.O.S.T. qualification, or for both, to receive the appropriate
10 documents to demonstrate the P.O.S.T. certification or P.O.S.T. qualification, or
11 both.

12 (4) Possession of a P.O.S.T. certification or P.O.S.T. qualification, or both,
13 by a local arson investigator shall not grant to that local arson investigator any
14 authority other than the authority granted by a commission issued pursuant to this
15 Subsection.

16 (5) The authority granted by a commission which is issued under the
17 provisions of this Subsection shall be limited to the powers, functions, duties, and
18 responsibilities which are set forth for local arson investigators in this Section. A
19 commission which is issued under the provisions of this Subsection shall not grant
20 any authority other than the powers, functions, duties, and responsibilities which are
21 set forth for local arson investigators in this Section.

22 (6) The authority to carry and use firearms which is granted to local arson
23 investigators by a commission which is issued under the provisions of this
24 Subsection is limited to the power to carry weapons while acting in the course and
25 scope of their duties as local arson investigators. Local arson investigators may carry
26 concealed weapons while acting in the course and scope of their duties, and the
27 provisions of R.S. 14:95 shall not apply to local arson investigators who carry
28 concealed weapons while acting in the course and scope of their duties.

29 ~~E.~~ F. The fire marshal shall have the authority to commission local certified

1 arson investigators to serve on a multi-jurisdictional arson task force operated by the
 2 fire marshal. The fire marshal shall have the power to promulgate rules and
 3 regulations to accomplish the operations and functions of the task force and to issue
 4 orders for the enforcement of such rules and regulations.

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

DIGEST

SB 211 Reengrossed

2017 Regular Session

Gary Smith

Present law defines "life safety and property protection contracting" as performing certification, inspection, installation, integration, sale, or service of systems and equipment designed to protect life and property. Present law further provides that life safety and property protection systems and equipment include, but is not limited to, mechanical or electronic locks, special locking systems and equipment, security systems and equipment, fire sprinkler systems and equipment, fire detection and alarm systems and equipment, fire suppression systems and equipment, and portable fire extinguishers, and fire hoses. Present law further provides that life safety and property protection contracting includes but is not limited to the sale, lease, rent, planning with the intent to prewire, prewiring, hydrostatic testing, maintenance, repair, testing, modification, improvement, or alteration of life safety systems and equipment; holding oneself or one's firm out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

Proposed law retains present law.

Present law provides that no person or firm can engage in life safety and property protection contracting without holding a current and valid license issued by the state fire marshal.

Proposed law provides that it is unlawful for any person to engage in the business of life safety and property protection contracting, as defined in present law, unless he holds an active license as required by present law. Proposed law further provides that it is sufficient for the indictment, affidavit, or complaint to allege that the accused unlawfully engaged in life safety and property protection contracting without authority from the office of state fire marshal.

Proposed law provides that any person who violates the provisions of proposed law will be guilty of a misdemeanor and, upon conviction, is to be imprisoned for not more than 90 days, fined not more than \$500 per day of the violation, or both.

Proposed law provides that notwithstanding any action taken by the office of state fire marshal, any person who does not possess a license as required by present law, and who violates any provision of proposed law and causes harm or damage to another in excess of \$500, upon conviction, is to be imprisoned for up to six months, fined between \$500 and \$5,000, or both. Proposed law further provides that any fine assessed and collected pursuant to proposed law is to be remitted to the La. Life Safety and Property Protection Trust Fund provided for in present law.

Present law provides that the fire marshal, the first assistant fire marshal, each deputy fire marshal, certified local authorities, and state or municipal arson investigators, while engaged in the performance of their duties as such, have the authority to investigate and cause the arrest of individuals suspected of having committed various enumerated present law crimes.

Proposed law adds the proposed law crime of engaging in life safety and property protection contracting without authority to this list.

Proposed law provides that the fire marshal, the first assistant fire marshal, and each deputy fire marshal has the authority to investigate and cause the arrest of any person suspected of having committed any offense connected to the investigation of any of the offenses enumerated in the present law list, or connected to the investigation of a burn injury report submitted to the office of state fire marshal in accordance with present law.

Effective August 1, 2017.

(Amends R.S. 40:1563.1(A)(20) and (C), (D), and (E); adds R.S. 14:206.1 and R.S. 40:1563.1(A)(21) and (F))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Changes punishment for violations that result in damages valued over \$500.
2. Makes bureau note technical changes.