

R156. Commerce, Occupational and Professional Licensing.

R156-55d. Burglar Alarm Licensing Rule.

R156-55d-101. Title.

This rule is known as the "Burglar Alarm Licensing Rule".

R156-55d-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapters 1 and 55, or this rule:

(1) "Alarm company agent", as defined in Subsection 58-55-102(2), is further defined for clarification to include a direct seller in accordance with 26 U.S.C. Section 3508.

(2) "Conviction", as used in this rule, means criminal conduct where the filing of a criminal charge has resulted in:

(a) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(b) a pending diversion agreement;

(c) a plea of nolo contendere;

(d) a guilty plea;

(e) a finding of guilt based on evidence presented to a judge or jury; or

(f) a conviction which has been reduced pursuant to Section 76-3-402.

(3) "Employee", as used in Subsection 58-55-102(17), means an individual:

(a) whose manner and means of work performance are subject to the right of control of, or are controlled by, an alarm company;

(b) whose compensation for federal income tax purposes is reported, or is required to be reported on a W-2 form issued by the company;

(c) who is entitled to workers compensation and unemployment insurance provided by the individual's employer per state or federal law; and

(d) who performs services in Utah as an alarm company agent while employed by a licensed alarm company.

(4) "Immediate supervision", as used in this rule, means reasonable direction, oversight, inspection, and evaluation of the work of a person, in or out of the immediate presence of the supervision person, so as to ensure that the end result complies with applicable standards.

(5) "Sensitive alarm system information", as defined in Subsection 58-55-102(39), is further defined for clarification to include any information that would permit a person to compromise, bypass, deactivate, or disable any part of an alarm system. Sensitive alarm system information does not include knowledge of what is installed in the home nor the location, by general description, of the equipment installed unless the knowledge would permit a person to compromise, bypass, deactivate, or disable any part of an alarm system.

(6) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(1), in Section R156-55d-502.

R156-55d-103. Authority -- Purpose.

This rule is adopted by the Division under the authority of

Subsection 58-1-106(1) (a) to enable the Division to administer Title 58, Chapter 55.

R156-55d-104. Organization -- Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-55d-302a. Qualifications for Licensure -- Application Requirements.

(1) An application for licensure as an alarm company shall include:

(a) two fingerprint cards containing:

(i) the fingerprints of the applicant's qualifying agent;

(ii) the fingerprints of each of the applicant's officers, directors, shareholders owning more than 5% of the stock of the company, partners, and proprietors; and

(iii) the fingerprints of each of the applicant's management personnel who will have responsibility for any of the company's operations as an alarm company within the state;

(b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and the Bureau of Criminal Identification, Utah Department of Public Safety, for each individual for whom fingerprints are required under Subsection (1) (b); and

(c) current photo identification for each individual for whom fingerprints are required under Subsection (1) (b). Acceptable photo identification shall include:

(i) a driver license issued by a state of the United States of American or Washington, District of Columbia; or

(ii) an identification card issued by the state of Utah.

(2) An application for license as an alarm company agent shall include:

(a) two fingerprint cards containing the fingerprints of the applicant;

(b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and the Bureau of Criminal Identification, Utah Department of Public Safety, regarding the applicant; and

(c) current photo identification for the applicant. Acceptable identification shall include:

(i) a driver license issued by a state of the United States of America or Washington, District of Columbia; or

(ii) an identification card issued by the state of Utah.

R156-55d-302c. Qualifications for Licensure -- Experience Requirements -- Qualifying Agent.

In accordance with Subsections 58-1-203(1) and 58-1-301(3) the experience requirements for an alarm company applicant's qualifying agent in Subsection 58-55-302(3) (k) (i) are established as follows:

(1) An applicant shall have within the past ten years:

(a) not less than 6,000 hours of experience in a lawfully operated alarm company business of which not less than 2,000 hours shall have been in a managerial, supervisory, or administrative position; or

(b) not less than 6,000 hours of experience in a lawfully operated alarm company business combined with not less than 2,000 hours of managerial, supervisory, or administrative experience in a lawfully operated construction company.

(2) All experience under Subsection (1) shall be as an employee or in accordance with 26 U.S.C. Section 3508 as a direct seller, and under the immediate supervision of the applicant's employer;

(3) All experience must be obtained while lawfully engaged as an alarm company agent and working for a lawfully operated burglar alarm company.

(4) A total of 2,000 hours of work experience constitutes one year (12 months) of work experience.

(5) An applicant may claim no more than 2,000 hours of work experience in any 12 month period.

(6) No credit shall be given for experience obtained illegally.

R156-55d-302d. Qualifications for Licensure -- Examination Requirements -- Qualifying Agent.

In accordance with Subsections 58-1-203(1) and 58-1-301(3), the examination requirements for an alarm company applicant's qualifying agent in Subsection 58-55-302(3)(k)(i)(C) are defined, clarified, or established in that an individual to be approved as a qualifying agent of an alarm company shall:

(1) pass the Utah Burglar Alarm Law and Rule Examination with a score of not less than 75%;

(2) pass the Burglar Alarm Qualifier Examination with a score of not less than 75%; and

(3) an applicant for licensure who fails an examination shall wait 30 days before retaking a failed examination.

R156-55d-302e. Qualifications for Licensure -- Insurance Requirements -- Alarm Company.

In accordance with Subsections 58-1-203(1) and 58-1-301(3), the insurance requirements for licensure as an alarm company in Section 58-55-302(3)(k)(x)(A) are defined, clarified, or established as follows:

(1) an applicant for an alarm company license shall file with the Division a "certificate of insurance" issued by an insurance company or agent licensed in the state demonstrating the applicant is covered by comprehensive public liability coverage in an amount of not less than \$300,000 for each incident, and not less than \$1,000,000 in total;

(2) the terms and conditions of the policy of insurance coverage shall provide that the Division shall be notified if the insurance coverage terminates for any reason; and

(3) all licensed alarm companies shall have available on file and shall present to the Division upon demand, evidence of insurance coverage meeting the requirements of this section for all periods of time in which the alarm company is licensed in this state as an alarm company.

R156-55d-302f. Qualifications for Licensure -- Good Moral Character -- Disqualifying Convictions.

(1) In addition to those criminal convictions prohibiting

licensure as set forth in Subsections 58-55-302(3)(k)(vii) and (3)(1)(iii), the following is a list of criminal convictions which may disqualify a person from obtaining or holding a burglar alarm company or a burglar alarm company agent's license:

(a) crimes against a person as defined in Title 76, Chapter 5, Parts 1 and 2;

(b) theft/larceny, including retail theft, as defined in Title 76, Chapter 6;

(c) sex offenses as defined in Title 76, Chapter 5, Part 4;

(d) any offense involving controlled substances;

(e) fraud;

(f) forgery;

(g) perjury, obstructing justice and tampering with evidence;

(h) conspiracy to commit any of the offenses listed herein;

(i) burglary

(j) escape from jail, prison or custody;

(k) false or bogus checks;

(l) pornography;

(m) any attempt to commit any of the above offenses; or

(n) two or more convictions for driving under the influence of alcohol within the last three years.

(2) Applications for licensure or renewal of licensure shall be considered on a case by case basis taking into consideration the following:

(a) the conduct involved;

(b) the potential or actual injury caused by the applicant's conduct; and

(c) the existence of aggravating or mitigating factors.

R156-55d-303. Renewal Cycle -- Procedure.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licensees under Title 58, Chapter 55, is established by rule in Section R156-1-308a(1).

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-55d-304. Renewal Requirement -- Demonstration of Clear Criminal History.

(1) In accordance with Subsections 58-1-203(1), 58-1-308(3)(b), and 58-55-302(4), there is created as a requirement for renewal or reinstatement of any license of an alarm company or alarm company agent a demonstration of clear criminal history for each alarm company qualifying agent and for each alarm company agent.

(2) The criminal history background check shall be performed by the Division and is not required to be submitted by the applicant.

(3) If the criminal background check discloses the applicant has a criminal history, the Division shall evaluate the criminal history in accordance with Sections 58-55-302 and R156-5d-302f to determine appropriate licensure action.

R156-55d-306. Change of Qualifying Agent.

In accordance with Subsection 58-55-304(6), an alarm company whose qualifier has ceased association or employment shall file with the Division an application for change of qualifier on forms provided

by the Division accompanied by a record of criminal history or certification of no record of criminal history and a fee established by the Division.

R156-55d-502. Unprofessional Conduct.

(1) "Unprofessional conduct" includes:

(a) failing as an alarm company to notify the Division of the cessation of performance of its qualifying agent or failing to replace its qualifying agent as required under Section R156-55d-306;

(b) failing as an alarm company agent to carry or display a copy of the licensee's license as required under Section R156-55d-601;

(c) failing as an alarm agent to carry or display a copy of his Electronic Security Association (ESA) level one certification or equivalent training as required under Section R156-55d-603;

(d) employing as an alarm company a qualifying agent or alarm company agent knowing that individual has engaged in conduct inconsistent with the duties and responsibilities of an alarm company agent.

(e) failing to comply with operating standards established by rule;

(f) failing as a burglar alarm company or a burglar alarm company agent to report an arrest, charge, indictment, or violation as required by Subsection R156-55d-605;

(g) a judgment on, or a judicial or prosecutorial agreement concerning a felony, or a misdemeanor involving moral turpitude, entered against an individual by a federal, state or local court, regardless of whether the court has made a finding of guilt, accepted a plea of guilty or nolo contendere by an individual, or a settlement or agreement whereby an individual has entered into participation as a first offender, or an action of deferred adjudication, or other program or arrangement where judgment or conviction is withheld;

(h) making false, misleading, deceptive, fraudulent, or exaggerated claims by an alarm company agent; and

(i) an alarm business or company having a residential or commercial false alarm rate 100% above the average of the residential or commercial false alarm rate of the municipality or county jurisdiction in which the alarm business or company's alarm systems are located.

(2) Unprofessional conduct by an alarm company agent, whether compensated as a W-2 employee or compensated in accordance with 26 U.S.C. Section 3508 as a direct seller, may also be unprofessional conduct of the alarm company employing the alarm company agent.

R156-55d-503. Administrative Penalties.

The administrative penalties defined in Section R156-55a-503 of the Utah Construction Trades Licensing Act Rule are hereby adopted and incorporated by reference.

R156-55d-601. Display of License.

An alarm company agent shall carry on his person at all times while acting as an alarm company agent a copy of his license and shall display that license upon the request of any person to whom the agent is representing himself as an alarm company agent, and upon the request of any law enforcement officer or representative of the Division.

R156-55d-602. Operating Standards -- Alarm Equipment.

In accordance with Subsection 58-55-308(1), the following standards shall apply with respect to equipment and devices assembled as an alarm system:

(1) An alarm system installed in a business or public building shall utilize equipment equivalent to or exceeding minimum Underwriters Laboratories, or the National Electrical Code standards for alarm system equipment.

(2) An alarm system installed in a residence shall utilize equipment equivalent to or exceeding minimum Underwriters Laboratories, or the National Electrical Code standards for residence alarm systems.

R156-55d-603. Operating Standards -- Alarm Installer.

In accordance with Subsection 58-55-308(1), the operating standards for the installer of an alarm system include the following:

(1) An alarm agent must be fully trained in the installation of an alarm system in accordance with the Electronic Security Association (ESA) level one certification or equivalent training requirements prior to the alarm agent installing any alarm system in any residence, business, or public building within the state.

(2) An alarm agent upon receiving initial licensure may work under the direct supervision of an alarm agent who has level one certification for a period of six months from the time of initial licensure without being required to hold a level one certificate.

(3) An alarm agent shall carry evidence of the ESA level one certification or equivalent training with him at all times.

R156-55d-604. Operating Standards -- Alarm System User Training.

In accordance with Subsection 58-55-308(1), the operating standards for the installation of an alarm system including the following:

(1) Upon completion of the installation of an alarm system by an alarm company, the installing alarm agent shall review with the alarm user, or in the case of a business with its employees, the operation of the alarm system to ensure that the user understands the function of the alarm system.

(2) The alarm company shall maintain training records, including installer and user false alarm prevention checklists, the dates of the training and the location of the training on each alarm system installed. These records shall be maintained in the files of the alarm company for at least three years from the date of the training.

R156-55d-605. Operating Standards -- Standards of Conduct.

In accordance with Subsection 58-55-302(k)(iii)(B)(vii), the following standards shall apply with respect to notifying the Division of an arrest, charge, indictment, or violation.

(1) A licensed burglar alarm company agent shall notify the licensee's employing burglar alarm company within 72 hours of being arrested, charged, or indicted for any criminal offense above the level of a Class C misdemeanor.

(2) Within 72 hours after receiving notification pursuant to

Subsection (1), the employing burglar alarm company shall provide written notification to the Division of the arrest, charge, indictment, or violation.

(3) The written notification required under Subsection (2) shall include:

- (a) the employee's name;
- (b) the name of the arresting agency, if applicable;
- (c) the agency case number or similar case identifier;
- (d) the date of the arrest, charge, indictment, or violation;

and

- (e) the nature of the criminal offense or violation.

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58-1-106(1)(a); 58-1-202(1)(a); 58-55-302(3)(k); 58-55-302(3)(l);
58-55-302(4); 58-55-308**