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113TH CONGRESS
1ST SESSION

H. R. 1441

To provide for background checks of persons working in the electronic life safety and security systems industry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2013

Mr. LUETKEMEYER (for himself and Mr. MICHAUD) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To provide for background checks of persons working in the electronic life safety and security systems industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electronic Life Safety and Security Systems Federal Background Check Act of 2013''.

SEC. 2. ELECTRONIC LIFE SAFETY AND SECURITY SYSTEMS FEDERAL BACKGROUND CHECKS.

(a) FINDINGS.—Congress finds the following:

(1) The electronic life safety and security systems industry performs critical security installation and protection for much of the infrastructure in the United States and provides commercial buildings, public agencies and residences with alarm and security systems that are an important part of homeland security and anti-crime and terrorist prevention.

(2) The electronic life safety and security systems industry includes central monitoring stations and individual employer-owned companies and other private sector businesses that install alarm and security systems in infrastructure of the United States.

(3) Some States do not provide for any licensing or regulation requirement that includes a State or Federal background check on employees of the companies involved in the electronic life safety and security systems industry.

(4) Many employees in the electronic life safety and security systems industry travel across State lines to install systems and may or may not be required to undergo Federal background checks as a condition of employment and in some cases there may be background check requirements at the State level or duplicated background checks at the county or city levels.

(b) DEFINITIONS.—In this section:

(1) ELECTRONIC LIFE SAFETY AND SECURITY SYSTEMS INDUSTRY.—The term ''electronic life safety and security systems industry'' means businesses that provide electronic life safety and security systems installation and central monitoring of fire and burglar alarm systems to public or private entities, including fire alarms, burglar alarms, smoke detection, closed-circuit TV, biometric systems, access control systems, personal emergency response systems, and other crime prevention systems.

(2) EMPLOYEE.—The term ''employee'' means an individual employed in the electronic life safety and security systems industry.

(3) PROSPECTIVE EMPLOYEE.—The term ''prospective employee'' means an individual seeking employment in the electronic life safety and security systems industry.

(4) COVERED ENTITY.—The term ''covered entity'' means any employer in the electronic life safety and security systems industry.

(c) PURPOSE.—The purpose of this section is to facilitate widespread access to State and national criminal history background checks, not otherwise authorized by Federal or State law, on employees and prospective employees in the electronic life safety and security systems industry.

(d) ESTABLISHMENT OF BACKGROUND CHECK.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall establish a method to permit covered entities to request a fitness determination by a governmental entity based on State and Federal fingerprint-based criminal history background checks, in accordance with the information contained in records acquired under section 534 of title 28, United States Code.

(2) DUTIES.—The Attorney General shall—

(A) inform covered entities about how to request background checks—

(i) for covered entities located in a State with a qualified State program, as determined by the Attorney General, by referring the covered entities to the State authorized agency; and

(ii) for covered entities located in a State without a qualified State program, as determined by the Attorney General, by providing information on alternative methods of obtaining a background check;

(B) complete a check of the national criminal history records system;

(C) establish procedures for the secure receipt of criminal history records;

(D) make determinations regarding whether the criminal history records received in response to a background check conducted under this section indicate, that the employee or prospective employee has a criminal history that may bear on the employee's or prospective employee's fitness for employment in the electronic life safety and security systems industry, based on whether the employee or prospective employee has, during the 10-year period before the background check is conducted, been convicted of or imprisoned for a felony or an offense involving dishonesty or false statement or the use of force against the person of another; and

(E) convey to the covered entity requesting the background check, the fitness determination of the employee or prospective employee.

(3) PROVISION OF RECORDS TO EMPLOYEES AND PROSPECTIVE EMPLOYEES AND OPPORTUNITY TO CHALLENGE OR WITHDRAW CONSENT.—

(A) IN GENERAL.—When the Attorney General makes a determination under paragraph (2) that an employee's or prospective employee's criminal history may bear on that employee's or prospective employee's fitness for employment, the Attorney General shall provide the employee or prospective employee with the criminal history records of the employee or prospective employee and a detailed notification of the rights of the employee or prospective employee under this paragraph.

(B) OPPORTUNITY TO CHALLENGE OR WITHDRAW CONSENT.—An employee or prospective employee described in subparagraph (A) may challenge the accuracy or completeness of any information in the criminal history record or to withdraw consent to participate in the fitness determination under procedures the Attorney General shall establish.

(4) FEES.—The Attorney General shall collect from an employer requesting a fitness determination under this section a fee to offset the costs of carrying out the duties described in this section, including this subsection, in an amount equal to the sum

of the actual cost of conducting the fitness determination and other criteria.

(e) PRIVACY OF INFORMATION.—

(1) PROHIBITION ON UNAUTHORIZED DISCLOSURE OR USE OF CRIMINAL HISTORY RECORDS.—Except for an employee or prospective employee, any entity or individual authorized to receive or transmit fingerprints or criminal history records under this section—

(A) shall use the fingerprints, criminal history records, or information in the criminal history records only for the purposes specifically set forth in this section; and

(B) shall maintain adequate security measures to ensure the confidentiality of the fingerprints, the criminal history records, and the information in the criminal history records.

(2) COMPLIANCE.—The Attorney General shall issue regulations—

(A) to ensure the enforcement of the nondisclosure requirements under paragraph (1) and to provide for appropriate sanctions in the case of violations of the requirements; and

(B) to ensure the non-retention of fingerprints and records obtained under this section by entities outside the Department of Justice for periods longer than those necessary to carry out the functions for which the records were obtained.

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