STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION by THOMAS C. HORNE ATTORNEY GENERAL January 30, 2014	No. I14-001 (R13-020) Re: Regulation of the Alarm Industry Pursuant to A.R.S. § 32-122.07(A)

To: Melissa Cornelius, Executive Director
Arizona Board of Technical Registration

Questions Presented

You asked for an opinion on the following questions regarding Arizona Revised Statutes ("A.R.S.") § 32-122.07(A), which outlines specific criminal convictions for which the Arizona Board of Technical Registration (the "Board") should deny certification to an alarm business or an alarm agent:

1. Does A.R.S. § 32-122.07(A) require the Board to deny an application for certification in the alarm industry based on any prior conviction for one of the enumerated crimes regardless of when the conviction occurred or whether the applicant's civil rights have since been restored?

2. Do the categories of crimes included in A.R.S. § 32-122.07(A) as grounds for denial of an application for certification in the alarm industry include both felony and misdemeanor convictions?

3. Is A.R.S. § 32-122.07(A)'s requirement that the Board deny an application for certification in the alarm industry for any prior felony or misdemeanor conviction for one of the crimes listed in the statute constitutional?

Summary Answers

1. Yes. Section 32-122.07(A) states that the Board "shall deny" an application for certification if the applicant has been convicted of any of the crimes listed in the statute. Other than an explicit three-year limitation on prior drug-related convictions, the statute does not include any temporal limitation on convictions that are grounds for denial of certification. Moreover, it does not create any exception to existing Arizona law that permits the denial of an occupational license to an applicant whose civil rights have been restored so long as the offense underlying the applicant's prior conviction is reasonably related to the functions of the occupation for which the license is sought. Through the plain language of the statute, the Legislature demonstrated its intent not to give the Board any discretion and instead required the Board to deny any applicant who has ever been convicted of one of the enumerated crimes.

2. Yes. Section 32-122.07(A) provides that the Board shall deny an application for certification if the applicant has ever been convicted of one of the specific crimes listed in the statute. The statute does not distinguish between misdemeanor and felony convictions. Given the plain language of § 32-122.07(A) and the fact that the Legislature did not expressly distinguish between felonies and misdemeanors, as it has in other statutes, it is clear that the Legislature intended § 32-122.07(A) to require the Board to deny applicants who have prior felony or misdemeanor convictions for the crimes referenced by the statute.

3. Yes. Under the appropriate equal protection analysis, § 32-122.07(A) is constitutional because the statute's requirement that the Board deny certification to any applicant

who has been convicted of one of the thirteen designated crimes is rationally related to the State's interest in protecting the public by regulating alarm professionals whose work directly affects the safety and property of Arizonans.

Background

Under Arizona law, a person shall not (1) operate an alarm business or (2) work as an alarm agent unless the person obtains the proper certification from the Board. A.R.S. §§ 32-121, -122.05(A), -122.06. Section 32-101(4)(a) defines an "alarm business" as "any person who, either alone or through a third party, engages in the business of either of the following: (i) Providing alarm monitoring services. (ii) Selling, leasing, renting, maintaining, repairing or installing a nonproprietor alarm system or service." Additionally, the statute defines an "alarm agent" as "a person, whether an employee, an independent contractor or otherwise, who acts on behalf of an alarm business and who tests, maintains, services, repairs, sells, rents, leases or installs alarm systems." A.R.S. § 32-101(3)(a).

As part of the application to the Board for certification, each alarm agent and controlling person of an alarm business must submit a completed fingerprint card for a background check. A.R.S. §§ 32-122.05(A), -122.06(B). Section 32-122.07(A) provides in pertinent part:

> A. The board shall deny an application for certification as an alarm business or alarm agent if a controlling person of an alarm business or an alarm agent has been convicted of any of the following:
> 1. Theft.
> 2. Burglary.
> 3. Robbery or armed robbery.
> 4. Criminal trespass.
> 5. Sexual abuse of a vulnerable adult.
> 6. Abuse of a vulnerable adult.
> 7. Sexual assault.
> 8. Any offense involving the exploitation of a minor.
> 9. Molestation of a child.
> 10. Homicide, including first or second degree murder and negligent homicide.

11. Distribution, manufacture or sale of marijuana, dangerous drugs or narcotic drugs if committed less than three years before the date of applying for certification.
12. Kidnapping.
13. Fraud by persons authorized to provide goods or services.

Analysis

A. Section 32-122.07(A) Requires the Board to Deny an Alarm Industry Certification Application if the Applicant Has Ever Been Convicted of Any of the Enumerated Crimes.

Section 32-122.07(A) provides that "[t]he board shall deny an application for certification as an alarm business or alarm agent" in the event the applicant "has been convicted" of any one of thirteen enumerated crimes. With the exception of the drug-related crimes set forth in subsection (A)(11), the statute does not include a time limitation on convictions for which the Board must deny an application. That is, the statute does not distinguish between a recent conviction for one of the thirteen enumerated crimes and a conviction for the same crime that may have occurred years prior to the applicant's submission of the application for certification.

You have asked whether the statutory language gives the Board any discretion to grant certification to an applicant who has a prior conviction for one of the enumerated crimes. In interpreting a statute, the primary goal is to ascertain and implement the legislative intent. *See, e.g., Harris Corp. v. Ariz. Dep't of Revenue*, 233 Ariz. 377, 381, ¶ 13, 312 P.3d 1143, 1147 (App. 2013). The plain language of the statute is the most reliable indicator of its meaning. *Id.* Unless the statutory language is ambiguous, the plain meaning of the statute governs. *Id.*

The plain language of A.R.S. § 32-122.07(A) indicates that the Legislature intended that the Board deny an application if an applicant has been convicted of any of the enumerated crimes, regardless of when that conviction occurred. Section 32-122.07(A) provides that the Board "shall deny" an application based on the prior convictions. The use of the word "shall" in a statute usually indicates that the Legislature intended a mandatory provision. *See, e.g., Ins. Co.*

of N. Am. v. Superior Court (Villagrana), 166 Ariz. 82, 85, 800 P.2d 585, 588 (1990); *Joshua J. v. Ariz. Dep't of Econ. Sec.*, 230 Ariz. 417, 421, ¶ 11, 286 P.3d 166, 170 (App. 2012). Although Arizona courts have interpreted the word "shall" in a statute to be merely directory in rare instances in which the legislative purpose is best achieved by such an interpretation, *see Joshua J.*, 230 Ariz. at 421, ¶ 11, 286 P.3d at 170, this rare exception does not apply here because nothing in A.R.S. § 32-122.07(A) indicates that the Legislature intended to use "shall" outside the usual mandatory manner. In fact, the legislative history for H.B. 2748, 50th Leg., 2d Reg. Sess. (Ariz. 2012)—the bill that is the source of A.R.S. § 32-122.07(A)—demonstrates that the Legislature intended the term "shall" to be a mandatory requirement. *See, e.g.*, Ariz. State Senate Research Staff, *Amended Fact Sheet for H.B. 2748 as Passed by the Senate*, at 4 (Apr. 5, 2012) (noting that H.B. 2748 "[r]equires the Board to deny an application for certification" if the applicant has been convicted of any of the enumerated crimes); Ariz. House of Representatives, *HB 2748 as Transmitted to the Governor*, at 2 (May 15, 2012) (noting that H.B. 2748 "[p]rescribes the offences [sic] that require [the Board] to deny an application for certification").

The Legislature's use of both "may" and "shall" in the same statute reinforces the conclusion that the Legislature recognized the difference between mandatory language and discretionary language and intended each word to carry its ordinary meaning. *Tanque Verde Unified Sch. Dist. No. 13 of Pima Cnty. v. Bernini*, 206 Ariz. 200, 212, ¶ 42, 76 P.3d 874, 886 (App. 2003); *HCZ Constr., Inc. v. First Franklin Fin. Corp.*, 199 Ariz. 361, 365, ¶ 15, 18 P.3d 155, 159 (App. 2001). The Legislature used both terms in this statute. *See* A.R.S. § 32-122.07(C) ("Within thirty days after the date of the notice [of denial], the applicant *may* request a hearing before the board.") (Emphasis added.)

Although § 32-122.07(A) does not provide any blanket temporal limitation as to the convictions that are grounds for denying an application, it does provide a specific one. Section 32-122.07(A)(11) explicitly requires the Board to deny an application if the applicant has been convicted of "[d]istribution, manufacture or sale of marijuana, dangerous drugs or narcotic drugs *if committed less than three years before the date of applying for certification.*" (Emphasis added.) In interpreting a statute, an Arizona court would give each word, phrase, and clause meaning so as not to render any other part of the statute superfluous or redundant. *See, e.g.*, *Williams v. Thude*, 188 Ariz. 257, 259, 934 P.2d 1349, 1351 (1997); *Harris Corp.*, 233 Ariz. at 382-83, ¶ 19, 312 P.3d at 1148-49. If the Legislature had intended to give the Board discretion to grant certification to applicants who did not have recent convictions, then its clarification that certain drug convictions required denial only if "committed less than three years before the date of applying for certification" would be superfluous.

Finally, § 32-122.07(A) does not give the Board the discretion to grant certification to an applicant who committed one of the enumerated crimes but has since had his or her civil rights restored. Pursuant to A.R.S. § 13-904(E), the State is permitted to deny a convicted felon who has had his or her civil rights restored an occupational license, permit or certificate if the offense underlying the conviction "has a reasonable relationship to the functions of the employment or occupation for which the license, permit or certificate is sought." As discussed in Part C below, the enumerated crimes in § 32-122.07 are sufficiently tailored to the functions of the alarm industry to satisfy the requisite nexus.

For these reasons, A.R.S. § 32-122.07(A) *requires* the Board to deny an application for certification in the alarm industry if the applicant has ever been convicted of one of the crimes

listed.[1] The language of the statute does not give the Board discretion to grant certification to an applicant who has ever been convicted of one of the thirteen crimes outlined in the statute.

B. Section 32-122.07 Requires the Board to Deny Applications Based on Misdemeanor and Felony Convictions for the Enumerated Crimes.

Section 32-122.07 requires that the Board deny applications if "a controlling person of an alarm business or an alarm agent has been *convicted*" of any of the enumerated crimes. (Emphasis added.) The term "conviction" applies to felonies and misdemeanors alike. *See, e.g.*, A.R.S. § 13-904(E) (referring to "conviction of a felony or misdemeanor"); A.R.S. § 31-331(5) (defining "prisoner" as a "person incarcerated in a detention facility who has been charged with or convicted of a misdemeanor"); *State v. Flores*, 227 Ariz. 509, 512, ¶ 10, 260 P.3d 309, 312 (App. 2011) ("The court convicted him of misdemeanor resisting arrest . . . ."). The statute does not differentiate between felonies and misdemeanors; its language encompasses both. As you have indicated in your request for an opinion, some of the crimes listed in the statute can be misdemeanors or felonies under Arizona law. *See, e.g.* A.R.S. § 13-1802(G) (differentiating between levels of theft that constitute felonies and misdemeanors); A.R.S. § 13-1504(B) (differentiating same for actions constituting criminal trespass).

The plain language of § 32-122.07(A) does not explicitly limit the scope of crimes to felonies. Instead, the statute requires the denial of an application for certification if the applicant has been "convicted" of certain crimes. In interpreting the scope of a statute, an Arizona court will not read into the statute any terms that the Legislature could easily have used to limit the scope. *See State v. Arbolida*, 206 Ariz. 306, 308, ¶ 8, 78 P.3d 275, 277 (App. 2003) (refusing to

[1] Although the question of whether the Board had discretion to grant certification applications based on the date of an applicant's prior conviction was not at issue in this Office's previous opinion discussing implementation of H.B. 2748, language in that Opinion supports this conclusion. *See* Ariz. Att'y Gen. Op. I13-001, at 5 (finding that, as a result of the language in A.R.S. § 32-122.07(A), "the Board must necessarily deny an application for certification if an alarm agent or person designated as a controlling person for an alarm business has been convicted of one of the listed crimes").

interpret a sentencing statute's use of the term "felonies" to exclude historical prior felonies because the Legislature could have easily differentiated such convictions if it had so intended). Had the Legislature intended to draft A.R.S. § 32-122.07(A) to include only prior felony convictions—not misdemeanor convictions—it could have done so, as it has in other circumstances. *See* A.R.S. § 8-533(B)(4) (providing that evidence sufficient to justify the termination of a parent-child relationship may include a parent's prior "conviction of a felony if the felony of which that parent is convicted is of such a nature as to prove the unfitness of that parent to have future custody and control of the child"); A.R.S. § 16-101(A)(5) (providing that every Arizona resident is qualified to register to vote so long as he or she "[h]as not been convicted of treason or a felony").

Finally, even if an Arizona court determined that A.R.S. § 32-122.07(A) is susceptible to multiple interpretations, it would not interpret the statute in a way that is inconsistent with other state statutes. *See, e.g., Metzler v. BCI Coca-Cola Bottling Co. of L.A., Inc.*, 233 Ariz. 133, ___, ¶ 11, 310 P.3d 9, ___ (App. 2013) (noting that, when interpreting statutes, the courts "strive to interpret related rules and statutes consistently"); *Bills v. Ariz. Prop. & Cas. Ins. Guar. Fund*, 194 Ariz. 488, 494, ¶ 18, 984 P.2d 574, 580 (App. 1999) (noting that courts construe statutes together in order to try to achieve consistency within the overall statutory scheme). Section 13-904(E) provides as follows:

> A person may be denied employment by this state or any of its agencies or political subdivisions or a person who has had his civil rights restored may be denied a license, permit or certificate to engage in an occupation by reason of the prior conviction *of a felony or misdemeanor* if the offense has a reasonable relationship to the functions of the employment or occupation for which the license, permit or certificate is sought.

(Emphasis added). Section 13-904(E) contemplates a state agency's ability to deny certain licenses, permits, and certificates to engage in an occupation to individuals who have been

convicted of "a felony or a misdemeanor" if the conviction "has a reasonable relationship to the functions of the employment or occupation for which the license, permit or certificate is sought." To read A.R.S. § 32-122.07(A) to only apply to felony convictions would be inconsistent with the Legislature's pronouncement in A.R.S. § 13-904(E).

C. Section 32-122.07(A) Is Constitutional.

The Equal Privileges Clause of the Arizona Constitution provides that "no law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations." Ariz. Const. art. 2, § 13. Similarly, the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution provides that "[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. The state and federal equal protection guarantees are essentially the same and are both designed to secure equal opportunity for those who are similarly situated. *State v. Lowery*, 230 Ariz. 536, 541, 287 P.3d 830, 835 (App. 2012); *Queen Creek Summit, LLC v. Davis*, 219 Ariz. 576, 583, 201 P.3d 537, 544 (App. 2008).

As discussed above, A.R.S. § 32-122.07(A) requires the Board to deny an application for certification to work in the alarm industry if the applicant has ever been convicted of one of the thirteen enumerated crimes. A.R.S. § 32-122.07(A) therefore classifies certain convicted criminals who apply for certification in the alarm industry differently than other applicants.

A legislative classification allowing disparate treatment that does not implicate a fundamental right or a suspect classification need only be rationally related to a legitimate state interest to be constitutional. *See, e.g.*, *Lowery*, 230 Ariz. at 541, 287 P.3d at 835; *Queen Creek Summit, LLC*, 219 Ariz. at 583, 201 P.3d at 544. The provisions in A.R.S. § 32-122.07(A) do not

implicate a fundamental right merely by creating a classification affecting a person's ability to obtain a license, permit, or certificate to work in the alarm industry. *See, e.g.*, *Lupert v. Cal. State Bar*, 761 F.2d 1325, 1327 n.2 (9th Cir. 1985) ("There is no basis in law for the argument that the right to pursue one's chosen profession is a fundamental right for the purpose of invoking strict scrutiny under the Equal Protection Clause."); *Kuts-Cheraux v. Wilson*, 71 Ariz. 461, 466, 229 P.2d 713, 716 (1951) (noting "that there exists in Arizona no such thing as a *right* to practice medicine" and that there is only "the *privilege* to practice medicine as allowed and regulated by the legislature"); *Caldwell v. Pima Cnty.*, 172 Ariz. 352, 355, 837 P.2d 154, 157 (App. 1991) ("The right to pursue a particular occupation or to operate a particular business, however, is not a fundamental right."). Moreover, classifications based on prior criminal convictions do not rise to the level of suspect classifications. *See, e.g.*, *United States v. Whitlock*, 639 F.3d 935, 941 (9th Cir. 2011) ("[N]either prisoners nor persons convicted of crimes constitute a suspect class for equal protection purposes.") (internal quotation marks omitted); *United States v. Smith*, 818 F.2d 687, 691 (9th Cir. 1987) ("We begin our review of this challenge by holding that persons convicted of crimes are not a suspect class.").

The Legislature's regulation of alarm-industry licensing in A.R.S. § 32-122.07(A) is constitutional if it is rationally related to a legitimate state interest. *Cf. Ariz. Bd. of Dental Exam'rs v. Fleischman*, 167 Ariz. 311, 314, 806 P.2d 900, 903 (App. 1990) (holding that a statutory requirement that a person desiring to practice denture technology have obtained a diploma in that field was rationally related to the goal of preventing unskilled persons from practicing in the field).

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1. Section 32-122.07(A) Furthers the State's Legitimate Interest in Safeguarding the Safety, Health, and Welfare of Alarm Industry Consumers.

The Legislature has stated that, similar to the State's other occupational licensing statutes, the purpose of the alarm licensing statute is to "provide for the safety, health and welfare of the public through the promulgation and enforcement of standards of qualification" for certain industries. A.R.S. § 32-101(A). Moreover, in creating the alarm-licensing requirements, the Legislature declared that it had a "statewide concern" for the "licensure, certification or registration of alarm businesses and alarm agents." Ariz. House of Representatives, *HB 2748 as Transmitted to the Governor*, at 1 (May 15, 2012).

Arizona and federal courts have previously held that Arizona statutes governing occupational licensing requirements for certain professions further the State's legitimate interest in protecting the public. *See, e.g.*, *Martinez v. Goddard*, 521 F. Supp. 2d 1002, 1009 (D. Ariz. 2007) (finding that Arizona's statutory scheme for contractor licensing is rationally related to the State's legitimate government purpose of protecting the public); *Ariz. State Bd. of Dental Exam'rs*, 167 Ariz. at 314, 806 P.2d at 903 (determining that Arizona's statute creating certain requirements for dental licenses is rationally related to the State's legitimate government interest in "preventing unskilled persons from practicing in this field").

Protecting the public by regulating who can work in the alarm industry is a legitimate state interest. Because alarm businesses and alarm agents provide, install, and monitor security alarms for homes and businesses, *see* A.R.S. § 32-101(B)(2)-(4), consumers entrust them with their personal safety and property. Alarm agents and others working for alarm businesses have access to sensitive information about consumers' homes, possessions, security codes, and daily routines. This gives the State a legitimate interest in protecting the public from any potential abuse by alarm agents or alarm businesses who have access to such information. *Cf. State v.*

Taketa, 767 P.2d 875, 876 (Nev. 1989) (applying an equal protection analysis and determining that the State of Nevada "has a legitimate interest in maintaining the integrity of private investigation work" because "[t]he public trust may well be undermined by assigning security . . . to ex-felons"). Section 32-122.07(A) furthers this interest by preventing certification of individuals who have engaged in specified illicit activities that present potential risks to purchasers of security alarms and related services.

2. Section 32-122.07(A) Is Rationally Related to the State's Interest.

State occupational-licensing regulations that deny licenses to individuals with certain criminal convictions have generally been found to be rationally related to a state's interest in protecting the public. *See, e.g.*, *Darks v. City of Cincinnati*, 745 F.2d 1040, 1043 (6th Cir. 1984) (upholding a city's practice of denying dance hall licenses to all convicted felons because the city's practice rationally "further[ed] the city's legitimate purpose of insuring that dance halls are operated by persons of integrity with respect for the law" and without such a regulation a dance hall "could pose a significant threat to the peace of the community"); *Upshaw v. McNamara*, 435 F.2d 1188, 1190-91 (1st Cir. 1970) (acknowledging that "a person who has committed a felony may be thought to lack the qualities of self control or honesty that [being a police officer] requires" and rejecting equal protection challenge to Boston Police Commissioner's refusal to hire an applicant who had been convicted of a felony); *Taketa*, 767 P.2d at 876 (upholding a Nevada statute prohibiting individuals with prior felony convictions from employment as private investigators).

In the few instances in which courts have overturned state statutes that deny occupational licenses to individuals with criminal convictions, those cases have involved a state's blanket denial of such licenses to all such individuals, regardless of the type of crime for which they

were convicted. *See, e.g., Furst v. N.Y.C. Transit Auth.*, 631 F. Supp. 1331, 1338 (E.D.N.Y. 1986) (finding New York City Transit Authority's policy of denying employment to convicted felons regardless of the particular crime to be unconstitutional because "[b]efore excluding ex-felons as a class from employment, a municipal employer must demonstrate some relationship between the commission of a particular felony and the inability to adequately perform a particular job"); *Kindem v. City of Alameda*, 502 F. Supp. 1108, 1113 (N.D. Cal. 1980) (finding that a provision of a city charter that precluded any person "who shall have been convicted of a felony" from being employed with the city violated the Equal Protection Clause of the Fourteenth Amendment because "[t]he permanent and automatic disability which the City Charter makes out of a felony conviction, without any attempt to fit the classification to the legitimate governmental interests implicated in municipal employment decisions" was not reasonably tailored to city employment); *Smith v. Fussenich*, 440 F. Supp. 1077, 1080-81 (D. Conn. 1977) (determining that Connecticut's statute automatically denying an application for a license to work as a private investigator or security guard if the applicant had been convicted of any prior felony was unconstitutionally overbroad because "[f]elony crimes such as bigamy and income tax evasion have virtually no relevance to an individual's performance as a private detective or security guard").

However, in cases where a state statute that denies occupational licenses or positions of employment to individuals with criminal convictions is limited to certain types of convictions that are related to the occupation at issue, the statute meets the rational basis test. For example, in *Lopez v. McMahon*, 205 Cal. App. 3d 1510, 1515 (App. 1988), the court held constitutional a California statute that required the California Department of Social Services to deny an application for a license to operate a childcare facility if the applicant or any staff member,

administrator, or adult residing at the facility had been convicted of any crime other than a minor traffic violation. The statute allowed the department to grant an exemption from disqualification if the person convicted of the crime is of "sufficient good character"; however, the statute did not allow any exemption for individuals who had been convicted of certain crimes including crimes against children, sex offenses, crimes involving violence, or crimes involving a threat of violence. *Id.* at 1515, 1517.

The *Lopez* plaintiff's application for a daycare facility license was denied because her husband, who resided with her, had been convicted of armed robbery. Even though the conviction occurred nearly ten years prior to the license application, the husband had never had another arrest or conviction, and all indications in the record demonstrated that he was "an upstanding citizen and a person of good moral character," the plaintiff could not obtain a license under the statute. *Id.* at 1514. In addressing the plaintiff's equal protection argument, the court applied rational basis review and specifically distinguished other cases in which courts had found that blanket denials of occupational licenses to all felons were unconstitutional. *Id.* at 1516. Instead, the *Lopez* court held the statute's "narrow classification is rationally related to the legislative purpose to protect day care children against risk of harm." *Id.* at 1517. Moreover, the court noted that the California Legislature "could reasonably conclude in the abstract that persons convicted of certain types of crimes—whether involving children, sex offenses or crimes of violence—pose a peculiar threat to the health and safety of children being cared for at the facility." *Id.* The court upheld the statute despite the permanent bar that it imposed on applicants with certain convictions.

Like the challenged statute in *Lopez*, A.R.S. § 32-122.07(A) designates specific crimes that the Arizona Legislature believes to involve prior conduct that poses a potential danger to

customers of alarm companies and their agents. In fact, each of the crimes listed in A.R.S. § 32-122.07(A) involves conduct that, if committed again, would be assisted by the sensitive nature of the information to which individuals working in the alarm industry are privy. *Cf. Taketa*, 767 P.2d at 876 (finding that a Nevada statute precluding certain ex-felons from being licensed as private investigators was rationally related to the State's interest because the statute listed certain felonies that "stem[] from misconduct associated with the duties related to activities that a private investigator might be expected to engage in"). An individual in the alarm business can readily obtain information about a consumer's residence, pattern of activity, and daily routine that render the customer vulnerable. Additionally, alarm professionals likely have access to their clients' security passwords as well as a working knowledge of each client's security system. By limiting the restrictions of A.R.S. § 32-122.07(A) to the specific enumerated prior convictions, the Legislature ensured that it was not making an unconstitutional blanket denial of employment in the alarm industry. Moreover, A.R.S. § 32-122.07(A)'s permanent bar from the alarm industry of applicants who have a conviction for any of the designated crimes other than the drug-related offenses does not render the statute unconstitutional. *See, e.g.*, *Lopez*, 205 Cal. App. 3d at 1517 (upholding permanent bar from childcare industry for certain types of criminal convictions); *Taketa*, 767 P.2d at 876 (upholding permanent bar from working as a private investigator for certain types of criminal convictions).

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Conclusion

The plain language of A.R.S. § 32-122.07(A) requires the Board to deny alarm-industry certification to applicants who have prior felony or misdemeanor convictions for any of the crimes listed in the statute. The statute does not violate the Equal Privileges Clause of the Arizona Constitution or the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution because the restrictions are rationally related to the State's legitimate interests in protecting the public.

Thomas C. Horne
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