

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 304 Department or Agency Alabama Electronic Security Board of Licensure

Rule No. 304-X-1-.10

Rule Title: Cease and Desist Orders

 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer Lyane Taurton

Date September 18, 2018

APA-2

Alabama Electronic Security Board of Licensure
(Agency Division: N/A)

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Electronic Security Board
of Licensure

RULE NO. & TITLE: 304-X-1-.10 Cease and Desist Orders

INTENDED ACTION: Amend Rule

SUBSTANCE OF PROPOSED ACTION:

In order to comply with ACT# 2014-160, amend rule to insert language clarifying the issuance of an injunction due to non-compliance with a cease and desist order.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Written comments may be submitted to: Alabama Electronic Security Board of Licensure, 7956 Vaughn Road PMB 392, Montgomery, AL 36116.

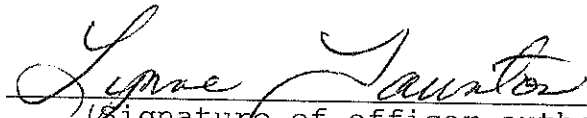
Public Hearing: Tuesday, November 13, 2018, 9:30 a.m., Alabama Industrial Development Training Center, One Technology Court, Montgomery, AL 36116.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

November 13, 2018

CONTACT PERSON AT AGENCY:

Lynne Taunton, Executive Director, Alabama Electronic Security Board of Licensure, 7956 Vaughn Road PMB 392, Montgomery, AL 36116. Telephone# 334-264-9388.



Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

304-X-1-.10**Cease And Desist Orders.**

- (1) The Board may conduct inspections relative to the operations of unlicensed persons to ensure lawful compliance.
- (2) If the Board has information relative to a person's unlawful activity, conduct or practice, the Board may issue an order for the person to show cause why an order should not be issued directing the person to cease and desist from the activity, conduct, practice or the performance of any work being done or about to be commenced.
- (3) If the person who receives an order from the Board files a written request for a hearing before the Board within 14 days after receipt of the order, the Board, not less than thirty days thereafter, shall hold a hearing on the matter.
- (4) After a hearing, or if no hearing is requested, the Board may issue a Cease and Desist Order in the name of the State of Alabama under the seal of the Board.
- (5) If the person to whom the Board directs a Cease and Desist Order does not cease or desist the prescribed activity, conduct, practice or performance of the work immediately, the Board may petition any court of competent jurisdiction to issue a writ of injunction enjoining the person from performing the work.
- (6) Upon a showing by the Board that the person has engaged or is engaging in any work prohibited by the Board's law, the court shall grant injunctive relief enjoining the person from engaging in such unlawful activity.
- (7) Upon the issuance of a permanent injunction, the court may fine the offending person up to five thousand dollars (\$5,000), plus costs and attorney fees for each offense, and may be rendered in the same judgment in which the injunction is made absolute.
- (8) Any person violating this Board's law who fails to cease work after a hearing ~~and notification from the Board or the issuance of an injunction by a Court of Law~~ shall not be eligible to apply for a license from the Board for a period of one year from the date of official notification to cease work.
- (9) The Board may also withhold approval for up to six months of any application from any person who prior to the application has been found in violation of this Board's law.

(10) Said Cease and Desist procedures are reserved for companies that have been licensed by the Board within the previous twelve (12) months.

(11) The Board may elect to forego issuance of a Cease and Desist Order and immediately file an injunction in a Court of Law, pursuant to Ala. Code §34-1A-7(f) if an individual or entity has not been licensed within the preceding twenty (24) months.

Author: Lynne Taunton

Statutory Authority: Code of Ala. 1975, §34-1A.

History: New Rule: Filed November 19, 2013; effective December 24, 2013. **Amended:** Filed ; effective