



June 22, 2015

To: State Board of Examiners of Electricians  
From: MSCA  
Re: Regulatory Review per Executive Order 562

Good Morning: The Massachusetts Systems Contractors Association (MSCA) thanks you for hosting this open forum to discuss the regulations for licensees in the Electrical and Systems Trade. We are pleased to provide some of our insights about the industry, the meaning of licensure, and the role of the Board. We think this meeting in compliance with Executive Order 562 is a forward approach for public engagement and we congratulate you on taking this step.

#### **I. Licensed versus Unlicensed Practice of the Electrical Industry: A Matter of Consumer Protection and Public Safety**

As a community of licensees in this trade we all have a need to express our overwhelming expectation that the Board will equally enforce the laws and regulations with those who are licensed and those who are unlicensed. We know you are very well aware that in many fields, with changes in technology, some companies and individuals have been engaged in our trades without the required licenses.

**Issue 1:** Recently, the Board was asked to comment on the need for Chapter 141 licensure for a surveillance system for a drive through restaurant and therefore the subsequent need for the Inspector of Wires to mandate a Chapter 147 S license as well. The Department of Public Safety told that company that the use of such technology was not "security" because the video was for "traffic flow". The Electrical Board discussed and determined that video technology for the purpose of surveillance could be used as evidence if a crime were committed and therefore the "surveillance system" had more than one purpose and security was definitely the end result. It appears that the statutory definition in Chapter 141 and 147 is identical but, the Board and DPS have interpreted the definition of "security" differently, which impacts the determination of need for the S license. The authority for "security" systems lies with this licensing board. In the spirit of Executive Order 562, we strongly urge that the Board and DPS have consistent

messaging to the public on the need for and enforcement of Chapter 141 and Chapter 147 licensure. This inconsistency and confusion has allowed unlicensed companies to install, maintain and repair "systems" without securing the appropriate licenses. Furthermore, state law requires fingerprinting for any contractor having direct access to students and the security system, "S license" does not include this provision, which result in additional administrative processes for contractors engaged in security work at our public schools in addition to the background check completed for the state under DPS.

**Recommendation 1:** We do need a leading agency for enforcement on this public safety dilemma and we strongly suggest it is the State Board of Examiners of Electricians' responsibility. Remember, the Purpose of the system is the heart of the law's definition...not the use of wires or technologies. The purpose and its enforcement is the heart of consumer protection and public safety. Please simplify and standardize the renewal cycle of Chapter 141 and Chapter 147 licenses and upgrade the DPS process to a national background check (not state only). The CORI check process at DPS, which assures contractors are safe to conduct business in the security industry should have a complete background check that includes fingerprints so that the process is complete and reliable, acceptable to all prospective customers including public school systems.

**Issue 2:** If the board were to seriously take its charge to protect the public, including from unlicensed practice, there could be clarity in the regulations as it relates to what constitutes a violation and the consequences of such violation. A \$1,000 fine for a large multi-million dollar company stakeholder who is unlicensed is hardly a disincentive to be engaged in unlicensed work. In lieu of a change to the statutory penalty allowed, definition of "violation", which would include the number of jobs and a per/day increase would have more substantive effect in curbing such illegal behavior. In accordance with Executive Order 562 we see this as a "clarification" needed for a strong understanding of the regulations and that the board will exercise its authority to enforce the law.

**Recommendation 2:** The board should establish a regulatory definition of "violation", for both licensed and unlicensed practice. The absence of a definition yields a simple fine structure that does not take public safety to the level of importance it deserves. If someone were practicing medicine without a license, you can be certain the Board of Registration in Medicine would surely stop such behavior, as a matter of public safety. The integrity of the security system industry and life safety systems we work with are just as important.

## II. Cumbersome Regulations

While we believe the board has a major role to play in protecting the public by assuring that those in the industry are licensed, the Board appears to have recently focused on stricter rules for those of us who are licensed and playing by the rules.

**Issue 3:** As a systems contractor, I was notified by the Board that someone reported that one of my vehicles had my license number on just one side of a company truck. The regulations do not require license numbers to be on both sides of company vehicles, yet the board used its resources to micro-manage this frivolous complaint.

**Recommendation 3:** Focus board resources on managing the multiple serious violations of the licensing law occurring daily by working with the Attorney General's Office to expedite pending court cases regarding unlicensed Chapter 141 work.

**Issue 4: 237 CMR 16.00**

Chapter 16.00 regarding Business licenses also deserves comment. The board is appropriately moving to regulate those who are in the "businesses" of this licensed work. Generally speaking, MSCA agrees with a change to not have a Certificate C or a Certificate A surrender their license as a "qualifying officer". Having the business recognized with a "licensee of record" in order to operate, yet having their own distinct license may prove helpful to the Board in getting a handle on those companies seeking to avoid licensure. We must express the concern of increased business expense because of this step, which is shared by all of our members and industry groups. Time frames for notice to the board for any change in the licensee of record must be reasonable for the business to comply with. We want to also assure our licensees that they may also serve as the licensee of record in more than one business. The board should be fully aware of all business relationships, but should not prohibit entrepreneurship. The Board has contemplated discipline that is equally applied to a licensee of record and to a business for violation of law or regulation. Although linked, we would like to note that one entity's bad behavior may not reflect behavior of the other entity.

**Recommendation 4:** Proceed with the public hearing process for these proposed regulations with these comments in mind and know that MSCA may make further suggestions on this section once it is posted for public comment.

**Issue 5: 237 CRM 18.00 concerning Rules Governing Practice**

Those looking to usurp the licensing law frequently move to hire D licensees with an eye toward having them meet their requirements for licensure.

**Recommendation 5A:** The board should clarify that a Certificate D systems technicians is not a business and prohibited from pulling permits. In order to be a business, a licensee must complete the requisite education and work experience and obtain a Certificate C to become a systems contractor. The systems technician is not bonded, insured, etc. and cannot on their own behalf be allowed to pull permits from municipal inspector of wires. This chapter of course will also need to reflect any changes made to chapter 16.00 regarding the "business license" in each applicable section.

**Recommendation 5B:** We encourage the Board in 237 CMR 18.00 to include "advertising" as a component of electrical and system work as under the scope of the

licensed activity that it regulates so that unlicensed entities are not deceiving the public by advertising their ability to perform Chapter 141 work.

**Recommendation 5C:** There are two other definitions for your consideration. Currently there is no definition of "audit" in the regulations and because of that there is great confusion among inspectors of wires and licensees during renewal periods as to whether or not licensees can continue to work while under such a status designation by the board. We suggest the addition of a definition of audit to make it clear to licensees what the status means the Board is doing and that they can continue to practice their trade.

**Recommendation 5D:** There is an incongruence that really needs to be addressed in the definitions of both "Electrical work" and "Systems work". Two issues need comment. One, the Electrical work definition does include fiber optic cables, yet the systems work definition does not, which is intellectually inconsistent and not realistic. Further, these definitions are not based on anything in Chapter 141. These definitions use the terminology "permanently wired". With today's technology, a source of power may not be "permanently wired" and nothing in Chapter 141 mandates that this is what is regulated by the Board. The law reflects the purposes for the work, and this statutory language is still contemporaneous with the many sources of power that yield: heat, light, power, fire warning, security and other inherently powered systems that are a focus for the work of our occupations. Please consider a much needed change to these two definitions.

**Recommendation 5E:** Another definition that we need to take a look at is "provider" and the lack of a definition for an instructor. Provider is currently defined as "...a provider of continuing education approved by the board". If you look at 237 CMR 17.02 Section 2(a) it reads: "Instructor Qualifications and Requirements. All course instructors, whether teaching independently or employed by an approved provider, shall be licensed electricians." Not all instructors are going to be licensed electricians that are providing Professional Development courses. Now, we know in theory that this is referring to those teaching the 15-Hour Continuing Education, but this is where the lines get blurred when we lump Continuing Education and Professional Development under the same terminology of "continuing education". This burdensome regulation is not clearly written and can lead to much confusion.

**Recommendation 5F:** The Board's policy for proof on completion of professional development hours is overly burdensome. In our opinion, the Board is wasting it's time and that of licensees in over regulating the documentation of these hours for re-licensure.

### **III. Regulations that are Burdensome for Workforce Development in the Licensed Systems Industry**

**Issue 6:** Last, but certainly not least, at a time when the growth in this industry is documented, the number of licensees seeking your authorization has dramatically fallen. In examining these graphics you'll see an illustration of the dichotomy. Every month you

report very little growth in C and D licensees. It's astounding that this industry has blossomed especially since 9/11, yet the number of licensees is so small. Since we know that the consumer public still demands and desires the services, the real question then becomes, if there is substantial growth, who is doing the work? What is the role of the Board then in regulating that work? This is the primary competitive issue facing those of us in the systems industry who are doing our best to be compliant holders of A, B, C and D licenses. We are aware of numerous new entrants and existing contractors including telecom companies, cable providers, information technology value-added resellers, cabling contractors, audio/video contractors, DIY do-it-yourself contractors, and many more, who are not complying with licensure requirements. In our estimation and of most importance for consumer protection and for the Board to have relevance, it needs to not only regulate those who are licensed, but prohibit those in the industry practicing without licenses.

**Recommendation 6:** Our goal is to suggest modernizations to the regulations that create incentives for "workers" to become "licensees". MSCA would be happy to work with you on this.

**Issue 7.** Another issue is that the D license exam is not contemporaneous with the industry and it takes a license applicant months to secure an exam date. The wait time, after an apprentice completes his/her schooling, and submits their application to the electrical board to sit for licensure, is 4-6 months. The state doesn't appear to support systems industry licensure as the exam is heavily weighted in the fire system component only. Although critically important to public safety, there must be exam questions covering the modern technologies used for integration of fire warning, security and other inherently power limited systems such as data networking. Chapter 141 is still pertinent in that it focuses licensure not on wires, but on purpose. Security, surveillance, fire warning, and systems integration including data networking, video, telephony, and sound are already identified in the curriculum requirements, but are not all included in the licensure examination at this time. This would attract those younger folks interested in the technology of this nature, including web based and internet technology.

**Recommendation 7.** The Board should bring this to the test designers' attention and establish a taskforce to work on a draft and a timetable in relation to this issue.

**Issue 8.** Another issue is a licensee's opportunity for growth. I'd like to address 237 CMR 13.00, specifically as it relates to the recognition of previous educational and work experiences in counting towards advancement.

**Recommendation 8:** We believe that applicants for a journeyman electrician's license who have work experience in the systems industry as a systems technician holding a D Certificate, should have up to 400 clock hours and 100% of that experience count, if attained in over no less than 2 years towards that application. In addition, we believe that apprentices' or learners' previous education and work should be credited toward licensure and should not expire.

We do hope this board takes serious steps to do serious work. MSCA is committed to assisting the board in any way possible.

Respectfully Submitted on behalf of MSCA,

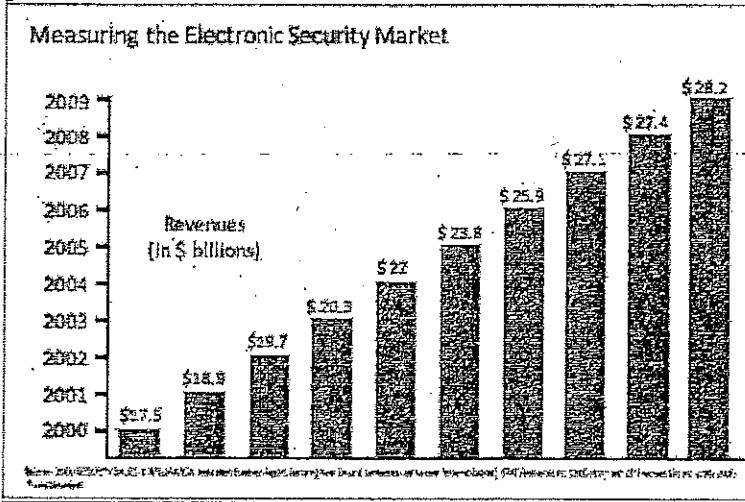
Wells Sampson  
President, American Alarm and Communications  
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Encl: Graph "Measuring the Electronic Security Market"  
Graph "Massachusetts Systems Licensees – loss of 28.6%"

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Here are the two graphs which tell the story.



Wells A. Sampson  
*President*

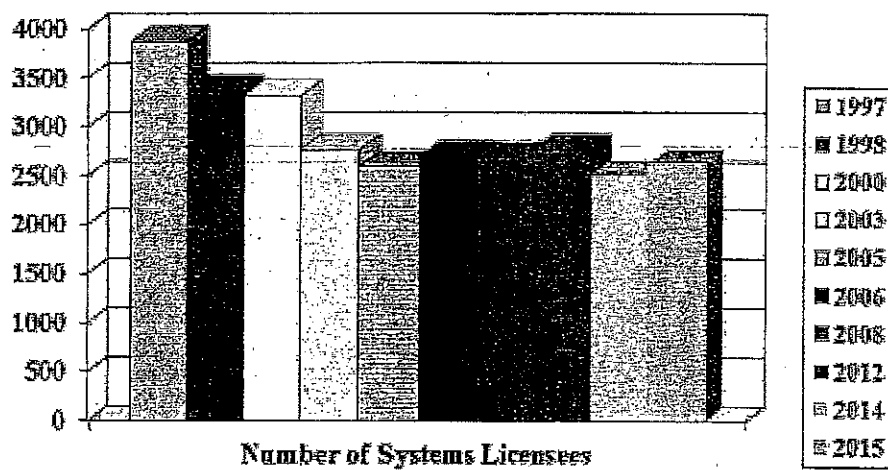


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## 32.1% Loss of MA Systems Licensees 1997-2015



Source: Board of State Examiners of Electricians