

CHAPTER 102

(SB 57)

AN ACT relating to personal emergency response systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) *"Alarm system" means electronic equipment and devices designed to act as a personal emergency response system;*
- (2) *"Personal emergency response system" means an alarm system that is:*
 - (a) *Installed in the residence of a customer;*
 - (b) *Monitored by an alarm systems company;*
 - (c) *Designed only to permit the customer to signal the occurrence of a medical or personal emergency on the part of the customer so that the personal emergency response system provider may dispatch appropriate aid; and*
 - (d) *Not part of a combination of alarm systems that includes a burglar alarm or fire alarm;*
- (3) *"Personal emergency response system provider" means a person who sells, installs, services, monitors, or responds to a personal emergency response system, but shall not include:*
 - (a) *A 911 center, public safety answering point, or communications center;*
 - (b) *A public or private agency called by the 911 center, public safety answering point, or communications center to render aid or services to the customer who sent the alarm to the personal emergency response system provider; or*
 - (c) *Any person on the customer's contact list;*
- (4) *"Customer" means both:*
 - (a) *The person in whose residence the personal emergency response system is installed; and*
 - (b) *The person with whom a personal emergency response system provider has contracted for the provision of personal emergency response services; and*
- (5) *"Responder" means:*
 - (a) *A person, if any, designated by the customer; and*
 - (b) *The 911 center, public safety answering point, or communications center in the jurisdiction from which an alarm was received, that is to be called by the personal emergency response system provider in the event the customer requires aid from a responder.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall not act or perform the services of a personal emergency response system provider in violation of the provisions of Section 3 of this Act.*
- (2) *A person performing the services of a personal emergency response system provider shall not:*
 - (a) *Fail or refuse to promptly make any notification provided by Section 3 of this Act;*
 - (b) *Violate any contract provision required by Section 3 of this Act; or*
 - (c) *Direct, permit, or authorize any employee or agent of the personal emergency response system provider to do any act forbidden or to fail to do any act required by this section or by Section 3 of this Act.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) *Effective January 1, 2009, all new contracts between a personal emergency response system provider and a customer shall be in accordance with the following:*
- (a) *The customer shall designate in the contract the order in which responders are to be contacted in the event the personal emergency response system provider receives an emergency alarm from the customer;*
 - (b) *The customer may designate in the contract that, in response to receiving a customer's alarm, the first and primary contact for the dispatch of aid shall be from the personal emergency response system provider to a 911 center, public safety answering point, or communications center in the jurisdiction from which the alarm was received;*
 - (c) *The customer may designate in the contract that if, in response to receiving a customer's alarm, the personal emergency response system provider is not able to solicit a verbal response from the customer, then the personal emergency response system provider shall call the customer's 911 center, public safety answering point, or communications center before contacting the customer's designated responders;*
 - (d) *If the customer does not designate in the contract a 911 center, public safety answering point, or communications center as the primary responder, then the customer's 911 center, public safety answering point, or communications center shall become the default secondary responder after the personal emergency response system provider has attempted, without success, to notify all other responders designated by the customer;*
 - (e) *The personal emergency response system provider shall provide a disclosure statement to the customer that clearly states that the customer has the option to designate in the contract a 911 center, public safety answering point, or communications center as the primary responder. The customer shall acknowledge that he or she has read the disclosure statement by initialing, signing, or checking a box on the disclosure statement;*
 - (f) *If a 911 center, public safety answering point, or communications center is designated as a responder by the customer pursuant to this section, the personal emergency response system provider shall provide that responder with the name of the customer, the location from which the customer's alarm was received, and such other information as may be requested by the 911 center, public safety answering point, or communications center; and*
 - (g) *Following any notification to the 911 center, public safety answering point, or communications center, the personal emergency response system provider shall attempt to notify the responders on the customer's calling list in accordance with the voice-to-voice request of the customer or, if no instructions are received from the customer, to the responders specified on the calling list in the order specified by prior written instructions of the customer.*
- (2) *For contracts existing between a personal emergency response system provider and a customer prior to January 1, 2009:*
- (a) *A personal emergency response system provider shall, by January 1, 2009:*
 - 1. *Mail a notice to each customer giving the customer the option of adding a 911 center, public safety answering point, or communications center as the primary responder as provided in this section; and*
 - 2. *Provide the customer with a toll-free number by which to contact the personal emergency response system provider in order to establish a modified protocol for the customer.*
 - (b) *If the customer does not contact the personal emergency response system provider to change his or her protocol, the existing protocol shall remain in place between the customer and the personal emergency response system provider.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Sections 2 and 3 of this Act shall not apply to:

- (1) *A unit of federal, state, local government, special district, or an agency or instrumentality thereof;*

- (2) *A person engaged in the business of electronic monitoring of an individual as a condition of that individual's community supervision, parole, mandatory supervision, pretrial release, or release on bail relating to a judicial proceeding; or*
- (3) *A person not engaged in the business of personal emergency response system provider as defined in Section 1 of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

- (1) *The Attorney General and the county attorney shall have concurrent jurisdiction to enforce the provisions of Sections 1 to 6 of this Act, and may recover the reasonable cost of investigation and litigation.*
- (2) *If an act by a personal emergency response system provider violates KRS 367.170, the Attorney General may take civil action and seek any remedy provided in KRS Chapter 367, including recovery of the reasonable costs of investigation and litigation.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly violates Section 2 or Section 3 of this Act shall be liable for a civil penalty of not more than ten thousand dollars (\$10,000) per violation.

➔Section 7. Sections 1 to 6 of this Act shall be known and may be cited as the Christine Talley Act.

Signed by Governor April 14, 2008.