

CHAPTER 134

AN ACT concerning the regulation of security guards, supplementing Title 45 of the Revised Statutes and amending P.L.1939, c.369 and P.L.1971, c.342.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.45:19A-1 Short title.

1. This act shall be known and may be cited as the "Security Officer Registration Act."

C.45:19A-2 Definitions relative to security officers.

2. As used in this act:

- a. "Owner" or "operator" means an officer, director, member, sole proprietor, partner or associate of a private security company.

- b. "Security officer" means any person who performs any of the following functions or activities as an employee, agent or subcontractor of a security officer company as defined in subsection c. of this section for a fee, hire or reward, notwithstanding the fact that other functions and activities may also be performed by the same person for fee, hire or reward:

- (1) protection of person or property, real or personal, from injury or harm or for any other purpose whatsoever;

- (2) deterrence, observation, detection or reporting of incidents and activities for the purpose of preventing the theft, or the unlawful taking, conversion, concealment or misappropriation of goods, wares, merchandise, money, bonds, stocks, notes or other valuable instruments, documents, papers or articles; or

- (3) deterrence, observation, detection or reporting of incidents and activities for the purpose of preventing any unauthorized or unlawful activity, including but not limited to, robbery, burglary, arson, criminal mischief, vandalism or trespass.

The term shall not mean or include, and nothing in this act shall apply to, any law enforcement officer of this State, or any political subdivision of the State, while in the actual performance of his duties. For the purposes of this section, a law enforcement officer shall be deemed to be in the actual performance of his duties if the law enforcement officer is in uniform, or is exhibiting evidence of his authority, is performing public safety functions on behalf of and as assigned by his chief of police or the chief law enforcement officer of his law enforcement agency and is receiving compensation, if any, from his law enforcement agency at the rates or stipends as are established by law. A law enforcement officer shall not be deemed to be in the actual performance of his duties, for the purposes of this section, if the law enforcement officer is performing private security functions or activities for a private employer while receiving compensation for those duties from the private employer, and a law enforcement officer shall not wear his uniform, or otherwise exhibit evidence of his authority as a law enforcement officer, while performing private security functions or activities for a private employer.

- c. "Security officer company" means any body, board, person, firm, corporation, partnership, proprietorship, joint venture, fund, authority or similar entity that is organized for the purpose of or primarily engages in the business of furnishing for a fee, hire, reward or compensation one or more security officers. The term shall not mean or include, and nothing in this act shall apply to, any board, body, commission or agency of the United States of America or of this State or any other state, territory or possession of the United States of America, or any county, municipality or school district or any officer or employee solely, exclusively and regularly employed by any of the foregoing. The term shall include any business of watch, guard or patrol agency.

- d. "Superintendent" means the Superintendent of the Division of State Police in the Department of Law and Public Safety.

C.45:19A-3 Licensing of security officer companies; requirements.

3. a. No person shall engage in the business of a security officer company, or advertise or hold out a business to be a security officer company, unless the business is licensed by the superintendent as set forth in this section. Any person who violates the provisions of this section shall be guilty of a crime of the fourth degree.

- b. An application to be licensed as a security officer company shall be submitted to the superintendent by each owner and operator of the company, on a form and in a manner

prescribed by the superintendent, and shall contain the following information:

(1) the full name, age, which shall be at least 25 years, and residence of the owners or operators of the security officer company;

(2) the full and complete employment history of the owners or operators;

(3) that the owners or operators have five years' law enforcement experience and are no longer employed by or attached in any capacity whatsoever to a law enforcement agency, or five years' experience working in a supervisory or management capacity for a licensed security officer company;

(4) the municipality and location of the security company's principal place of business and any office, bureau, agency or subdivision of the company; and

(5) such further information as the superintendent may require to show the good character, competency and integrity of the owners or operators of the security officer company.

Each application shall be accompanied by the written approval, for each owner or operator of the security officer company, of not less than five reputable citizens who have known the applicant for at least three years preceding the date of application and who shall certify that the applicant is a person of good moral character and behavior.

Any person who shall knowingly make a false statement in or knowingly omit any material information from the application required by this subsection shall be guilty of a crime of the fourth degree in addition to any other crime or offense specified by law.

c. No security officer company shall be licensed under the provisions of this section if any owner or operator of the company has been convicted, as indicated by a criminal history record background check performed pursuant to the provisions of this section, of: a crime of the first, second, third or fourth degree; any offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or any offense where the issuance of a license would be contrary to the public interest, as determined by the superintendent. The fingerprints of each owner or operator and the written consent of the owner or operator shall be submitted to the superintendent for a criminal history record background check to be performed. The superintendent shall compare these fingerprints with fingerprints on file with the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The owner or operator shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

d. The superintendent, when satisfied with the examination of any application and such further inquiry and investigations as he shall deem proper as to the good character, competency and integrity of the applicant, shall issue a license to an approved security officer company upon payment of a fee in an amount established by the superintendent by rule and regulation and execution of a bond in a manner, form and amount satisfactory to the superintendent as established by rule and regulation. The license shall be renewable every two years upon payment of a renewal fee in an amount established by the superintendent by rule and regulation. The license may be revoked or suspended by the superintendent for a violation of any of the provisions of this act or for other good cause.

e. The revocation or suspension of any license by the superintendent shall be subject to notice and a hearing.

f. A person who, as an owner or operator of a licensed security officer company employs a security officer who is not registered with the superintendent as required under section 4 of this act shall be guilty of a crime of the fourth degree in addition to any other crime or offense specified by law. Each violation of this section shall constitute a separate offense.

Each owner and operator of a licensed security officer company shall be liable, accountable and responsible for the actions and conduct in connection with the employer's business of each security officer employed by the company.

g. A security officer company shall require each person in its employ to execute and furnish a verified statement, to be known as an "employee's statement," which shall set forth the employee's full name, age, residence, place and date of birth and such other information as the superintendent shall require by rule or regulation. The security officer company shall retain in safe keeping each "employee's statement." The superintendent shall at all times be given access

to and may from time to time examine each "employee's statement" retained by the security officer company as provided in this subsection.

h. A security officer company shall immediately but in no case after 48 hours, notify the superintendent if a security officer is terminated for cause at any time.

C.45:19A-4 Registration required for security officers.

4. a. No person shall be employed as, or perform the functions and activities of, a security officer unless that person is registered with the superintendent as required in this section. Any person who violates the provisions of this section shall be guilty of a crime of the fourth degree.

b. An application for registration as a security officer shall be filed with the superintendent on a form and in a manner prescribed by the superintendent and shall set forth under oath:

(1) the applicant's full name, age, which shall be at least 18 years, and residence;

(2) the name and address of all employers or occupations engaged in for the immediately preceding five years;

(3) that the applicant has not been convicted of any disqualifying crime or offense as set forth in subsection c. of this section; and

(4) such further information as the superintendent may require to show the good character, competency and integrity of the applicant.

Any person who shall knowingly make a false statement in, or knowingly omit any material information from, an application as required by this subsection shall be guilty of a crime of the fourth degree in addition to any other crime or offense specified by law.

c. No person shall be issued a certificate of registration as a security officer under the provisions of this section if the person has been convicted, as indicated by a criminal history record background check performed pursuant to the provisions of this section, of: a crime of the first, second, third or fourth degree; any offense involving the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.2C:35-2; or any offense where the registration of the individual would be contrary to the public interest, as determined by the superintendent. Each applicant shall submit to the superintendent the applicant's fingerprints and written consent for a criminal history record background check to be performed. The superintendent shall compare these to fingerprints on file with the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation, consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

d. A person whose application has been approved by the superintendent shall complete the required education and training program established in section 5 of this act. Upon satisfactory completion of this program, and upon the payment of a fee in an amount established by the superintendent, the applicant shall be entitled to and the superintendent shall issue and deliver to the applicant a security officer certificate of registration.

e. The superintendent may revoke or suspend such certificate of registration for a violation of any of the provisions of this act or for other good cause. A certificate of registration shall be surrendered to the superintendent within 72 hours after its term has expired or after notice in writing to the holder that the certificate of registration has been revoked.

f. The certificate of registration shall be renewed every two years upon forms prescribed by the superintendent and payment of a fee in an amount established by the superintendent by rule and regulation. The certificate of registration may be renewed without further investigation unless it is deemed by the superintendent that the applicant no longer qualifies or verified objections to the renewal are received by the superintendent prior to issuance.

g. The revocation or suspension of any certificate of registration by the superintendent shall be subject to notice and a hearing.

C.45:19A-5 Establishment of education and training program.

5. a. An education and training program for security officers shall be established by the superintendent through rule and regulation. The program shall consist of such subjects and courses as the superintendent may deem appropriate and shall include a minimum number of hours of classroom or other instruction.

b. In implementing and administering the education and training program required in subsection a. of this section, the superintendent shall have the power:

- (1) to implement and administer or approve the minimum courses of study and training;
- (2) to implement and administer or approve physical and psychological testing and screening of applicants;
- (3) to issue certificates of approval to schools approved by the superintendent and to withdraw certificates of approval from those schools disapproved by the superintendent;
- (4) to certify instructors pursuant to the minimum qualifications established by the superintendent;
- (5) to consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses for security officers;
- (6) to consult and cooperate with departments and agencies of this State, other states and the federal government concerned with training of security officers;
- (7) to certify those persons who have satisfactorily completed basic educational and training requirements;
- (8) to annually visit and inspect approved schools;
- (9) to establish reasonable charges for training and education provided by the superintendent; and
- (10) to make such rules and regulations and to perform such other duties as may be reasonably necessary or appropriate to implement the education and training program.

C.45:19A-6 Issuance of identification card to registered security officer.

6. a. The superintendent shall cause to be issued to a registered security officer an identification card containing such information as the superintendent shall prescribe. The identification card shall incorporate appropriate security features.

b. A person who is issued an identification card pursuant to subsection a. of this section shall be responsible for its safekeeping and shall not lend, let or allow any other person to use, possess, exhibit or display the card.

c. No person shall use, possess, exhibit or display any license, card, shield or badge of any design or material purporting to authorize the holder or wearer to act as a security officer, unless such person holds a valid certificate of registration as a security officer pursuant to section 4 of this act.

d. If it is established to the satisfaction of the superintendent that an identification card has been lost or destroyed, the superintendent shall, upon payment of an appropriate fee, cause to be issued a duplicate identification card for the unexpired portion of the term of the registration.

e. Any person who violates the provisions of this section shall be guilty of a crime of the fourth degree in addition to any other crime or offense specified by law.

C.45:19A-7 Electronic registry of security officers; registration fee.

7. a. The superintendent shall develop and maintain an electronic database or similar electronic registry, which shall be accessible by licensed security officer companies, and which shall list all persons who are registered as security officers pursuant to the provisions of this act and such other information as the superintendent shall require by rule and regulation.

b. Each applicant for a certificate of registration as a security officer shall pay a fee to the superintendent in an amount established by the superintendent by rule and regulation. These fees shall be used exclusively for the development and maintenance of the electronic database or registry established pursuant to subsection a. of this section.

C.45:19A-8 Additional penalties.

8. a. In addition to any other penalties prescribed by this act or any other law, an owner or operator of a licensed security officer company who employs a security officer in violation of the provisions of this act shall be liable to a civil penalty not to exceed \$10,000 for the first offense and not more than \$20,000 for a second or subsequent offense. For the purposes of this subsection, each violation shall constitute a separate offense.

b. In addition to any other penalties prescribed by this act or any other law, a person who

permits himself to be employed as or performs the functions and activities of a security officer while in violation of the provisions of this act shall be liable to a civil penalty not to exceed \$1,000 for a first offense and not more than \$2,500 for a second or subsequent offense. For the purposes of this subsection, each violation shall constitute a separate offense.

c. A penalty imposed under subsection a. or b. of this section shall be recovered in a civil action pursuant to "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

C.45:19A-9 Powers of superintendent.

9. For the purpose of investigating whether a person has engaged in, or is engaging in, any act or practice declared unlawful under this act, or for the purpose of investigating the character, competency, integrity or methods of operation of applicants, licensees or registrants hereunder, or of any owner or operator of any licensed security officer company, the superintendent shall have the power to:

a. Require any person to file on such form as may be prescribed by the superintendent, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning any matter being investigated;

b. Administer oaths or affirmations and examine any person in connection with any investigation;

c. Inspect any premises and examine and impound any record, book, computer, electronic database, recording device, document, account, paper or other tangible thing, without prior notification, in connection with any investigation;

d. Hold investigative hearings and issue subpoenas to compel the attendance of any person or the production of any record, book, computer, electronic database, recording device, document, account, paper or other tangible thing in connection with any investigation; and

e. Apply to the Superior Court for an order compelling compliance with any subpoena or other request for information.

C.45:19A-10 Violations; revocation, suspension of licence; prosecution.

10. A violation of any of the provisions of this act shall be cause for revocation or suspension of any license or registration issued hereunder, notwithstanding that the same violation may constitute a crime or other offense under the laws of this State or any other state or jurisdiction. An indictment, prosecution and conviction arising out of any of the provisions of this act shall not be construed to preclude, if the evidence so warrants, an indictment, prosecution and conviction for any other crime or offense in this State or any other state or jurisdiction.

C.45:19A-11 Compliance required by March, 2006.

11. Each owner or operator of a security officer company and each person employed as a security officer on the effective date of this act shall comply with the requirements of this act by the first day of the seventh month after its effective date.

C.45:19A-12 Rules, regulations.

12. The superintendent shall promulgate rules and regulations necessary to carry out the provisions of this act.

13. Section 2 of P.L.1939, c.369 (C.45:19-9) is amended to read as follows:

C.45:19-9 Definitions.

2. Definitions:

(a) The term "private detective business" shall mean the business of conducting a private detective agency or for the purpose of making for hire or reward any investigation or investigations for the purpose of obtaining information with reference to any of the following matters, notwithstanding the fact that other functions and services may also be performed by the same person, firm, association or corporation for fee, hire or reward, to wit: (1) crime or wrong done or threatened or assumed to have been done or threatened against the Government

of the United States of America, or any State, Territory or Possession of the United States of America; (2) the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person, association, organization, society or groups of persons, firms or corporations; (3) the credibility of witnesses or other persons; (4) the whereabouts of missing persons; (5) the location or recovery of lost or stolen property; (6) the causes and origin of, or responsibility for, fires, libels, accidents, damage, injuries or losses to persons, firms, associations or corporations, or to real or personal property; (7) the affiliation, connection or relation of any person, firm or corporation with any organization, society, association, or with any official member or representative thereof; (8) with reference to the conduct, honesty, efficiency, loyalty or activities of employees, agents, contractors and subcontractors; (9) the securing of evidence to be used before any investigating committee, board of award, board of arbitration, or in the trial of any civil or criminal cause; provided, however, that the term shall not include a person, firm, association or corporation engaged exclusively in the business of making investigations and reports as to the financial standing, credit and financial responsibility of persons, firms, associations or corporations nor to electrically controlled burglar or fire alarm system with a central unit, nor to any person, firm, association or corporation engaged in the business of making reports for insurance or credit purposes. The term shall not include and nothing in this act shall apply to any lawful activity of any board, body, commission or agency of the United States of America or of any State, Territory or Possession of the United States of America, or any county, municipality, school district, or any officer or employee solely, exclusively and regularly employed by any of the foregoing; nor to any attorney or counselor-at-law in connection with the regular practice of his profession, nor to any person employed by any such attorney or counsellor-at-law when engaged upon his employer's business; nor to any employee, investigator or investigators solely, exclusively and regularly employed by any person, firm, association or corporation which is not engaged in any of the businesses hereinbefore described in items numbered one to nine, both inclusive, of this subsection in so far as their acts may relate solely to the business of the respective employers; nor to any person, firm, association or corporation licensed to do a business of insurance of any nature under the insurance laws of this State, nor to any employee or licensed agent thereof; nor to any person, firm, association or corporation conducting any investigation solely for its own account.

(b) The terms "the business of detective agency" and "the business of investigator" shall mean any person, firm, association or corporation engaged in the private detective business as defined in subsection (a) of this section, who employs one or more persons in conducting such business, but shall not include the business of watch, guard or patrol agency.

(c) The terms "private detective" or "investigator" shall mean and include any person who singly and for his own account and profit conducts a private detective business without the aid or assistance of any employees or associates.

(d) The masculine shall include the feminine and the neuter genders.

(e) The term "superintendent" means the Superintendent of State Police.

(f) The terms "firm" and "association" shall include partnerships, but shall not include corporations.

14. Section 3 of P.L.1971, c.342 (C.45:19-12.1) is amended to read as follows:

C.45:19-12.1 Employees of licensee; fees payable, violations, penalties.

3. a. Subsequent to the effective date of this act, every licensee shall pay to the superintendent an additional fee of \$15.00 for each person in its employ engaged in said employment in this State as a private detective or investigator. Any licensee who shall employ any person in the aforementioned categories subsequent to its securing a license or renewal thereof and for whom the fee of \$15.00 has not been paid shall pay the fee of \$15.00 for each of said persons prior to the commencement of said employment with the licensee. Thereafter any licensee at the time of any renewal if its license hereunder shall pay a renewal fee of \$5.00 for each of said employees in the aforementioned categories for whom an initial fee of \$15.00 has been paid by said licensee.

b. Any licensee who shall employ any person in the aforementioned categories in subsection

a. above without having paid the fees in accordance with said subsection a. shall be a disorderly person.

15. Section 12 of P.L.1939, c.369 (C.45:19-19) is amended to read as follows:

C.45:19-19 Badge, shield, certain; prohibited, violations deemed misdemeanor.

12. No person licensed under the provisions of this act, or the officers, directors, employees, operators or agents thereof, shall wear, carry or accept any badge or shield purporting to indicate that such person is a private detective or investigator or connected with the private detective business. Any person violating the provisions of this section shall be guilty of a misdemeanor.

16. This act shall take effect on the 365th day after enactment, except that the superintendent may take, prior to the effective date, such anticipatory administrative action as shall be necessary for the implementation of this act

Approved August 31, 2004.