

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 206*

Short Title: Private Protective Services.

(Public)

Sponsors: Senator Richardson.

Referred to: State Personnel and State Government.

March 5, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PRIVATE PROTECTIVE SERVICES ACT TO REQUIRE REGISTRATION OF PROPRIETARY UNARMED GUARDS, TWO-YEAR TERMS FOR LICENSES AND REGISTRATIONS, AND TO INCREASE FEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74C-3 reads as rewritten:

"§ 74C-3. Private protective services profession defined.

(a) As used in this Chapter, the term 'private protective services profession' means and includes the following:

- (1) 'Armored car profession' means any person, firm, association, or corporation which provides secured transportation and protection from one place or point to another place or point of money, currency, coins, bullion, securities, checks, documents, stocks, bonds, jewelry, paintings, and other valuables for a fee or other valuable consideration. This definition does not include a person operating an armored car business pursuant to a motor carrier certificate or permit issued by the North Carolina Utilities Commission which grants operating rights for such business; however, armed armored car service guards shall be subject to the provisions of G.S. 74C-13.
- (2) Repealed by Session Laws 1983, c. 786, s. 2, effective January 1, 1984.
- (3) 'Counterintelligence service profession' means any person, firm, association, or corporation which discovers, locates, or disengages by

1 electronic, electrical, or mechanical means any listening or other
2 monitoring equipment surreptitiously placed to gather information
3 concerning any individual, firm, association, or corporation for a fee or
4 other valuable consideration.

5 (4) 'Courier service profession' means any person, firm, association, or
6 corporation which transports or offers to transport from one place or
7 point to another place or point documents, papers, maps, stocks, bonds,
8 checks, or other small items of value which require expeditious service
9 for a fee or other valuable consideration. This definition does not
10 include a person operating a courier service pursuant to a motor carrier
11 certificate or permit issued by the North Carolina Utilities Commission
12 which grants operating rights for such service; however, armed courier
13 service guards shall be subject to the provisions of G.S. 74C-13.

14 (5) 'Detection of deception examiner' means any person, firm, association,
15 or corporation which uses any device or instrument, regardless of its
16 name or design, for the purpose of the detection of deception or any
17 person who reviews the work product of an examiner including charts,
18 tapes or other methods of record keeping for the purpose of detecting
19 deception or determining accuracy.

20 (6) 'Security guard and patrol profession' means any person, firm,
21 association, or corporation that provides a security guard on a
22 contractual basis for another person, firm, association, or corporation
23 for a fee or other valuable consideration and performing one or more
24 of the following functions:

- 25 a. Prevention or detection of intrusion, entry, larceny, vandalism,
26 abuse, fire, or trespass on private property;
- 27 b. Prevention, observation, or detection of any unauthorized
28 activity on private property;
- 29 c. Protection of patrons and persons lawfully authorized to be on
30 the premises of the person, firm, association, or corporation that
31 entered into the contract for security services; or
- 32 d. Control, regulation, or direction of the flow or movement of the
33 public, whether by vehicle or otherwise, only to the extent and
34 for the time directly and specifically required to assure the
35 protection of properties.

36 (7) 'Guard-dog service profession' means any person, firm, association, or
37 corporation which contracts with another person, firm, association, or
38 corporation to place, lease, rent, or sell a trained dog for the purpose of
39 protecting lives or property for a fee or other valuable consideration.

40 (8) 'Private detective' or 'private investigator' are synonymous and mean
41 any person who engages in the profession of or accepts employment to
42 furnish, agrees to make, or makes inquiries or investigations
43 concerning the below-listed topics on a contractual basis:

- 1 a. Crimes or wrongs done or threatened against the United States
2 or any state or territory of the United States;
- 3 b. The identity, habits, conduct, business, occupation, honesty,
4 integrity, credibility, knowledge, trustworthiness, efficiency,
5 loyalty, activity, movement, whereabouts, affiliations,
6 associations, transactions, acts, reputation, or character of any
7 person;
- 8 c. The location, disposition, or recovery of lost or stolen property;
- 9 d. The cause or responsibility for fires, libels, losses, accidents,
10 damages, or injuries to persons or to properties;
- 11 e. Securing evidence to be used before any court, board, officer, or
12 investigative committee; or
- 13 f. Protection of individuals from serious bodily harm or death.
- 14 (9) 'Special limited guard and patrol profession' means any person who is
15 licensed under Chapter 74D of the General Statutes of North Carolina
16 and provides armed alarm responders pursuant to G.S. 74C-13.
17 Applicants for this limited license shall not be required to meet the
18 experience requirements for a security guard and patrol license. Any
19 experience gained under this limited license shall not be counted as
20 experience for a security guard and patrol license.
- 21 (10) 'Proprietary security officer' means any individual who is employed, in
22 an employer-employee relationship, by a business entity that does not
23 provide, or advertise as providing, services regulated under this
24 Chapter, and who performs security work on the premises of, or in
25 connection with, the business of that employer, in an unarmed capacity
26 and wearing a uniform or displaying a badge. If the employee is an
27 armed security guard and wears, carries, or possesses a firearm in the
28 performance of his duties, the provisions of G.S. 74C-13 apply.
- 29 (b) 'Private protective services' shall not mean:
- 30 (1) Licensed insurance adjusters legally employed as such and who
31 engage in no other investigative activities unconnected with
32 adjustment or claims against an insurance company;
- 33 (2) An officer or employee of the United States, this State, or any political
34 subdivision of either while such officer or employee is engaged in the
35 performance of his official duties within the course and scope of his
36 employment with the United States, this State, or any political
37 subdivision of either;
- 38 (3) A person engaged exclusively in the business of obtaining and
39 furnishing information as to the financial rating or credit worthiness of
40 persons; and a person who provides consumer reports in connection
41 with:
- 42 a. Credit transactions involving the consumer on whom the
43 information is to be furnished and involving the extensions of
44 credit to the consumer,

- 1 b. Information for employment purposes,
2 c. Information for the underwriting of insurance involving the
3 consumer,
4 d. Information in connection with a determination of the
5 consumer's eligibility for a license or other benefit granted by a
6 governmental instrumentality required by law to consider an
7 applicant's financial responsibility, or
8 e. A legitimate business need for the information in connection
9 with a business transaction involving the consumer;
- 10 (4) An attorney at law licensed to practice in North Carolina while
11 engaged in such practice and his agent, provided said agent is
12 performing duties only in connection with his principal's practice of
13 law;
- 14 (5) The legal owner or lien holder, and his agents and employees, of
15 personal property which has been sold in a transaction wherein a
16 security interest in personal property has been created to secure the
17 sales transaction, who engage in repossession of said personal
18 property;
- 19 (6) Repealed by Session Laws 1989, c. 759, s. 3;
- 20 (7) Repealed by Session Laws 1981, c. 807, s. 1;
- 21 (8) Employees of a licensee who are employed exclusively as undercover
22 agents; provided that for purposes of this section, undercover agent
23 means an individual hired by another person, firm, association, or
24 corporation to perform a job for that person, firm, association, or
25 corporation and, while performing such job, to act as an undercover
26 operative, employee, or independent contractor of a licensee, but under
27 the supervision of a licensee;
- 28 (9) A person who is engaged in an alarm systems business subject to the
29 provisions of Chapter 74D of the General Statutes;
- 30 (10) A person who obtains or verifies information regarding applicants for
31 employment, with the knowledge and consent of the applicant, and is
32 (i) engaged in business as a private personnel service as defined in
33 G.S. 95-47.1 or engaged in business as a private employer fee pay
34 personnel service, (ii) engaged in the business of obtaining or verifying
35 information regarding applicants for employment, or (iii) an employer
36 with whom the applicant has applied for employment;
- 37 (11) A person who conducts efficiency studies. An efficiency study is an
38 analysis of an employer's business, made at the request of the
39 employer, to determine one or more of the following:
- 40 a. The most efficient procedures by which an employee of the
41 business can perform the employee's assigned duties.
- 42 b. The adequacy of an employee's performance of the employee's
43 assigned duties that require interaction with a client or customer
44 of the business.

1 If a person making an efficiency study observes an instance of theft or
 2 another illegal act committed by an employee of the business, the
 3 person may report the instance to the employer without violating G.S.
 4 74C-3(a)(8);

5 (12) Research laboratories and consultants who analyze, test, or in any way
 6 apply their expertise to interpreting, evaluating, or analyzing facts or
 7 evidence submitted by another in order to determine the cause or effect
 8 of physical or psychological occurrences, and give their opinions and
 9 findings to the requesting source or to a designee of the requestor;

10 (13) ~~A person who works regularly and exclusively as an employee of an~~
 11 ~~employer in connection with the business affairs of that employer. If~~
 12 ~~the employee is an armed security guard and wears, carries, or~~
 13 ~~possesses a firearm in the performance of his duties, the provisions of~~
 14 ~~G.S. 74C-13 apply;~~

15 (14) An employee of a security department of a private business that
 16 conducts investigations exclusively on matters internal to the business
 17 affairs of the ~~business~~business, except as provided for in subsection
 18 (a)(10) of this section."

19 Sec. 2. G.S. 74C-9 reads as rewritten:

20 "**§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable;**
 21 **late renewal fee.**

22 (a) The license when issued shall be in such form as may be determined by the
 23 Board and shall state:

- 24 (1) The name of the licensee,
- 25 (2) The name under which the licensee is to operate, and
- 26 (3) The number and expiration date of the license.

27 (b) The license shall be issued for a term of ~~one year~~two years. A trainee permit
 28 shall be issued for a term of ~~one year~~two years. All licenses must be renewed prior to
 29 the expiration of the term of the license. Following issuance, the license shall at all
 30 times be posted in a conspicuous place in the licensee's principal place of business, in
 31 North Carolina, unless for good cause exempted by the Administrator. A license issued
 32 under this Chapter is not assignable.

33 (c) Repealed by Session Laws 1989, c. 759, s. 7.

34 (d) The operator or manager of any branch office shall be properly licensed or
 35 registered. The license shall be posted at all times in a conspicuous place in the branch
 36 office. This license shall be issued for a term of ~~one year~~two years. Every business
 37 covered under the provisions of this Chapter shall file in writing with the Board the
 38 addresses of each of its branch offices, if any, within 10 working days after the
 39 establishment, closing, or changing of the location of any branch office. The
 40 Administrator may, upon the successful completion of an investigation of the
 41 application, issue a temporary branch office license pending approval of the application
 42 by the Board.

43 (e) The Board is authorized to charge reasonable application and license fees as
 44 follows:

- 1 (1) A nonrefundable initial application fee in an amount not to exceed ~~one~~
2 ~~hundred fifty dollars (\$150.00);~~ two hundred dollars (\$200.00);
- 3 (2) A new or renewal license fee in an amount not to exceed ~~two hundred~~
4 ~~fifty dollars (\$250.00);~~ five hundred dollars (\$500.00);
- 5 (3) A new or renewal trainee permit fee in an amount not to exceed ~~two~~
6 ~~hundred fifty dollars (\$250.00);~~ five hundred dollars (\$500.00);
- 7 (4) A new or renewal fee for each license or duplicate license in addition
8 to the basic license referred to in subsection (2) in an amount not to
9 exceed ~~fifty dollars (\$50.00);~~ one hundred dollars (\$100.00);
- 10 (5) A late renewal fee to be paid in addition to the renewal fee due in an
11 amount not to exceed one hundred dollars (\$100.00), if the license has
12 not been renewed on or before the expiration date of the licensee;
- 13 (6) A new, renewal, replacement or reissuance fee for an unarmed
14 registration identification card in an amount not to exceed ~~thirty dollars~~
15 ~~(\$30.00);~~ sixty dollars (\$60.00);
- 16 (7) An application fee for an armed security guard firearm registration
17 permit not to exceed fifty dollars (\$50.00);
- 18 (8) A new, renewal, replacement, or reissuance fee for an armed security
19 guard firearm registration permit not to exceed ~~thirty dollars (\$30.00);~~
20 sixty dollars (\$60.00);
- 21 (9) An application fee for certification as a certified trainer not to exceed
22 fifty dollars (\$50.00);
- 23 (10) A renewal or replacement fee for certified trainer certification not to
24 exceed ~~twenty-five dollars (\$25.00);~~ fifty dollars (\$50.00);
- 25 (11) A new nonresident temporary permit fee not to exceed one hundred
26 dollars (\$100.00);
- 27 (12) An unarmed registration transfer fee not to exceed fifteen dollars
28 (\$15.00);
- 29 (13) A new or renewal branch office license fee not to exceed ~~fifty dollars~~
30 ~~(\$50.00);~~ one hundred dollars (\$100.00); and
- 31 (14) A new or renewal special limited guard and patrol license fee not to
32 exceed ~~one hundred dollars (\$100.00);~~ two hundred dollars (\$200.00).

33 Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be
34 expended, under the direction of the Board, for the purpose of defraying the expenses of
35 administering this Chapter.

36 (f) A license or trainee permit granted under the provisions of this Chapter may
37 be renewed by the Private Protective Services Board upon notification by the licensee or
38 permit holder to the Administrator of intended renewal, the payment of the proper fee,
39 and evidence of a policy of liability insurance as prescribed in G.S. 74C-10(e).

40 The renewal shall be finalized before the expiration date of the license. In no event
41 will renewal be granted more than three months after the date of expiration of a license
42 or trainee permit.

1 (g) Upon notification of approval of his application by the Board, an applicant
2 must furnish evidence that he has obtained the necessary liability insurance required by
3 G.S. 74C-10 and obtain the license applied for or his application shall lapse.

4 (h) Trainee permits shall not be issued to applicants that qualify for a private
5 detective license. A licensed private detective may supervise no more than five trainees
6 at any given time."

7 Sec. 3. G.S. 74C-11 reads as rewritten:

8 **"§ 74C-11. Registration of permanent and temporary employees; unarmed**
9 **security guard required to have registration card.**

10 (a) All licensees shall register their employees who will be engaged in providing
11 private protective services covered by this Chapter with the Board within 20 days after
12 the employment begins, unless the Administrator, in his discretion, extends the time
13 period, for good cause. To register an employee, a licensee must give the Board the
14 following:

- 15 (1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards;
16 recent photograph(s) of acceptable quality for identification; and
- 17 (2) Statements of any criminal records obtained from the appropriate
18 authority in each area where the employee has resided within the
19 immediately preceding 48 months.

20 (b) ~~A~~Neither a security guard and patrol company~~company~~, nor a proprietary
21 business, may ~~not~~ employ an unarmed security guard unless the guard has a registration
22 card issued under subsection (d) of this section. A person engaged in a private
23 protective services profession may not employ an armed security guard unless the guard
24 has a firearm registration permit issued under G.S. 74C-13.

25 (c) The Administrator shall be notified in writing of the termination of any
26 employee registered under subsection (a) within 10 days after said termination.

27 (d) An unarmed security guard shall make application to the Administrator for an
28 unarmed registration card which the Administrator shall issue to said applicant after
29 receipt of the information required to be submitted by his employer pursuant to
30 subsection (a), and after meeting any additional requirements which the Board, in its
31 discretion, deems to be necessary. The unarmed security guard registration card shall be
32 in the form of a pocket card designed by the Board, shall be issued in the name of the
33 applicant, and may have the applicant's photograph affixed thereto. The unarmed
34 security guard registration card shall expire ~~one year~~ two years after its date of issuance
35 and shall be renewed every ~~year~~ two years. If an unarmed registered security guard is
36 terminated by a licensee and changes employment to another security guard and patrol
37 company, the security guard's registration card shall remain valid, provided the security
38 guard pays the unarmed guard registration transfer fee to the Board and a new unarmed
39 security guard registration card is issued. An unarmed security guard whose transfer
40 registration application and transfer fee have been sent to the Board may work with a
41 copy of the transfer application until the registration card is issued.

42 (e) Notwithstanding the provisions of this section, a licensee may employ a
43 person properly registered or licensed as an unarmed security guard in another state for
44 a period not to exceed 10 days in any given month; provided the licensee, prior to

1 employing the unarmed security guard, submits to the Administrator the name, address,
2 and social security number of the unarmed guard and the name of the state of current
3 registration or licensing, and the Administrator approves the employment of the
4 unarmed guard in this State.

5 (f) Notwithstanding the provisions of this section, a licensee may employ a
6 person as an unarmed security guard for a period not to exceed 30 days in any given
7 calendar year without registering that employee in accordance with this section;
8 provided that the licensee submits to the Administrator a quarterly report, within 30
9 days after the end of the quarter in which the temporary employee worked, which
10 provides the Administrator with the name, address, social security number, and dates of
11 employment of such employee."

12 Sec. 4. This act is effective upon ratification and applies to fees due and
13 licenses issued or renewed on or after that date, except that proprietary security officers
14 shall obtain a license or registration as required by this act no later than one year from
15 the date of ratification of this act.