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## HOUSE BILL NO. 511

Offered January 9, 2002

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*A BILL to amend and reenact §§ 9.1-139, 9.1-140, 9.1-145 and 9.1-149 of the Code of Virginia, relating to Department of Criminal Justice Services; private security; penalty.*

Patrons—Drake, Marshall, D.W., Moran and Wardrup

Referred to Committee on Militia, Police and Public Safety

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-139, 9.1-140, 9.1-145 and 9.1-149 of the Code of Virginia are amended and reenacted as follows:**

§ 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses.

A. No person shall engage in the private security services business or solicit private security business in the Commonwealth without having obtained a license from the Department. No person shall be issued a private security services business license until a compliance agent is designated in writing on forms provided by the Department. The compliance agent shall ensure the compliance of the private security services business with this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board. A compliance agent shall have either a minimum of (i) three years of managerial or supervisory experience in a private security services business; with a federal, state or local law-enforcement agency; or in a related field or (ii) five years of experience in a private security services business; with a federal, state or local law-enforcement agency; or in a related field.

B. No person shall act as private security services training school or solicit students for private security training in the Commonwealth without being certified by the Department. No person shall be issued a private security services training school certification until a school director is designated in writing on forms provided by the Department. The school director shall ensure the compliance of the school with the provisions of this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board.

C. No person shall be employed by a licensed private security services business in the Commonwealth as armored car personnel, courier, armed security officer, security canine handler, private investigator, personal protection specialist, alarm respondent, central station dispatcher, electronic security sales representative or electronic security technician without possessing a valid registration issued by the Department, except as provided in this article.

D. A temporary license may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary license until (i) he has designated a compliance agent who has complied with the compulsory minimum training standards established by the Board pursuant to subsection A of § 9.1-141 for compliance agents, (ii) each principal of the business has submitted his fingerprints for a National Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other requirements of this article and Board regulations.

E. A temporary registration may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary registration until he has (i) complied with, or been exempted from the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, for armored car personnel, couriers, armed security officers, security canine handlers, private investigators, personal protection specialist, alarm respondents, central station dispatchers, electronic security sales representatives or electronic security technicians, (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (iii) met all other requirements of this article and Board regulations.

F. A temporary certification as a private security instructor or private security training school may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary certification as a private security services instructor until he has (i) met the education, training and experience requirements established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a temporary certification as a private security services training school until (a) he has designated a training director, (b) each principal of the training school has submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (c)

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59 he has met all other requirements of this article and Board regulations.

60 G. A licensed private security services business in the Commonwealth shall not employ as an  
61 unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central  
62 station dispatcher, electronic security sales representative, or electronic security technician, any person  
63 who has not complied with, or been exempted from, the compulsory minimum training standards  
64 established by the Board, pursuant to subsection A of § 9.1-141, except that such person may be so  
65 employed for not more than ninety days while completing compulsory minimum training standards.

66 H. No person shall be employed as an electronic security employee, electronic security technician's  
67 assistant, unarmed alarm respondent, central station dispatcher, electronic security sales representative,  
68 electronic security technician or supervisor until he has submitted his fingerprints to the Department to  
69 be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records  
70 search. The provisions of this subsection shall not apply to an out-of-state central station dispatcher  
71 meeting the requirements of subdivision 19 of § 9.1-140.

72 I. The compliance agent of each licensed private security services business in the Commonwealth  
73 shall maintain documentary evidence that each private security registrant and certified employee  
74 employed by his private security services business has complied with, or been exempted from, the  
75 compulsory minimum training standards required by the Board ~~and~~. *Until December 31, 2002, the*  
76 *compliance agent shall ensure* that an investigation to determine suitability of each unarmed security  
77 officer employee has been conducted, except that any such unarmed security officer, upon initiating a  
78 request for such investigation under the provisions of subdivision 11 of subsection A of § 19.2-389, may  
79 be employed for up to thirty days pending completion of such investigation. *After January 1, 2003, no*  
80 *person shall be employed as an unarmed security officer until he has submitted his fingerprints to the*  
81 *Department of National Criminal Records Search and a Virginia Criminal History Records Search.*

82 J. No person with a criminal conviction for a misdemeanor involving (i) moral turpitude, (ii) assault  
83 and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled  
84 substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual  
85 behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms, or any  
86 felony shall be (a) employed as a registered or certified employee by a private security services business  
87 or training school, or (b) issued a private security services registration, certification as an unarmed  
88 security officer, electronic security employee or technician's assistant, a private security services training  
89 school or instructor certification, compliance agent certification, or a private security services business  
90 license, except that, upon written request, the Director of the Department may waive such prohibition.

91 K. The Department may grant a temporary exemption from the requirement for licensure,  
92 certification, or registration for a period of not more than thirty days in a situation deemed an  
93 emergency by the Department.

94 L. All private security services businesses and private security services training schools in the  
95 Commonwealth shall include their license or certification number on all business advertising materials.

96 M. *A licensed private security services business in the Commonwealth shall not employ as an*  
97 *armored car personnel any person who has not complied with, or been exempted from, the compulsory*  
98 *minimum training standards established by the Board pursuant to subsection A of § 9.1-141, except such*  
99 *person may serve as a driver of an armored car for not more than ninety days while completing*  
100 *compulsory minimum training standards, providing such person does not possess or have access to a*  
101 *firearm while serving as a driver.*

102 § 9.1-140. Exceptions from article; training requirements for out-of-state central station dispatchers.

103 The provisions of this article shall not apply to:

104 1. An officer or employee of the United States, the Commonwealth, or a political subdivision of  
105 either, while the officer or employee is performing his official duties.

106 2. A person, except a private investigator as defined in § 9.1-138, engaged exclusively in the  
107 business of obtaining and furnishing information regarding an individual's financial rating *or a person*  
108 *engaged in the business of a consumer reporting agency as defined by the Federal Fair Credit*  
109 *Reporting Act. This exception shall not apply to private investigators as defined in § 9.1-138.*

110 3. An attorney or certified public accountant licensed to practice in Virginia or his employees.

111 4. The legal owner of personal property which has been sold under any security agreement while  
112 performing acts relating to the repossession of such property.

113 5. A person receiving compensation for private employment as a security officer, or receiving  
114 compensation under the terms of a contract, express or implied, as a security officer, who is also a  
115 law-enforcement officer as defined by § 9.1-101 and employed by the Commonwealth or any of its  
116 political subdivisions.

117 6. Any person appointed under § 46.2-2003 or § 56-353 while engaged in the employment  
118 contemplated thereunder, unless they have successfully completed training mandated by the Department.

119 7. Persons who conduct investigations as a part of the services being provided as a claims adjuster,  
120 by a claims adjuster who maintains an ongoing claims adjusting business, and any natural person

employed by the claims adjuster to conduct investigations for the claims adjuster as a part of the services being provided as a claims adjuster.

8. Any natural person otherwise required to be registered pursuant to § 9.1-139 who is employed by a business that is not a private security services business for the performance of his duties for his employer. Any such employee, however, who carries a firearm and is in direct contact with the general public in the performance of his duties shall possess a valid registration with the Department as required by this article.

9. Persons, sometimes known as "shoppers," employed to purchase goods or services solely for the purpose of determining or assessing the efficiency, loyalty, courtesy, or honesty of the employees of a business establishment.

10. Licensed or registered private investigators from other states entering Virginia during an investigation originating in their state of licensure or registration when the other state offers similar reciprocity to private investigators licensed and registered by the Commonwealth.

11. Unarmed regular employees of telephone public service companies where the regular duties of such employees consist of protecting the property of their employers and investigating the usage of telephone services and equipment furnished by their employers, their employers' affiliates, and other communications common carriers.

12. An end user.

13. A material supplier who renders advice concerning the use of products sold by an electronics security business and who does not provide installation, monitoring, repair or maintenance services for electronic security equipment.

14. Members of the security forces who are directly employed by electric public service companies.

15. Any professional engineer or architect licensed in accordance with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 to practice in the Commonwealth, or his employees.

16. Any person who only performs telemarketing or schedules appointments without access to information concerning the electronic security equipment purchased by an end user.

17. Any certified forensic scientist employed as an expert witness for the purpose of possibly testifying as an expert witness.

18. Members of the security forces who are directly employed by shipyards engaged in the construction, design, overhaul or repair of nuclear vessels for the United States Navy.

19. An out-of-state central station dispatcher employed by a private security services business licensed by the Department provided he (i) possesses and maintains a valid license, registration, or certification as a central station dispatcher issued by the regulatory authority of the state in which he performs the monitoring duties and (ii) has submitted his fingerprints to the regulatory authority for the conduct of a national criminal history records search.

20. Any person, or independent contractor or employee of any person, who (i) exclusively contracts directly with an agency of the federal government to conduct background investigations and (ii) possesses credentials issued by such agency authorizing such person, subcontractor or employee to conduct background investigations.

§ 9.1-145. Fingerprints required.

A. Each applicant for registration, licensure or certification as a ~~compliance agent, or private security services training school or instructor~~ under the provisions of this article and every person employed as an ~~electronic security employee or electronic security technician's assistant~~ shall submit his fingerprints to the Department on a form provided by the Department. *Effective January 1, 2003, each applicant for registration, licensure or certification on his next renewal must submit his fingerprints to the Department. The applicant's fingerprints shall be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records Search.*

B. *Effective January 1, 2003, the Virginia State Police shall maintain a database of all applicants for registration, licensure or certification under the provisions of this article. The Virginia State Police shall notify the Department of any arrest associated with any applicant maintained in the applicant database.*

C. *The Department may suspend the registration, license or certification of any applicant who is subsequently convicted of a misdemeanor involving (i) moral turpitude, (ii) assault and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 or (vi) firearms or any felony.*

D. *Any person willfully and intentionally making a false statement on the personal descriptive information required on the fingerprint card shall be guilty of a Class 5 felony.*

§ 9.1-149. Unlicensed activity prohibited; penalty.

A. No person:

1. Required to possess a registration under subsection C of § 9.1-139 shall be employed by a private

182 security services business, except as provided in this article, as armored car personnel, courier, armed  
183 security officer, security canine handler, personal protection specialist, private investigator, alarm  
184 respondent, central station dispatcher, electronic security sales representative or electronic security  
185 technician without possessing a valid registration.

186 2. Licensed or required to be licensed under subsection A of § 9.1-139 shall employ or otherwise  
187 utilize, except as provided in this article, as armored car personnel, courier, armed security officer,  
188 security canine handler, personal protection specialist, private investigator, alarm respondent, central  
189 station dispatcher, electronic security sales representative or electronic security technician, any person  
190 not possessing a valid registration.

191 3. Required to possess an instructor certification under subsection D of § 9.1-139 shall provide  
192 mandated instruction, except as provided in § 9.1-141 and Board regulations, without possessing a valid  
193 private security instructor certification.

194 4. Certified or required to be certified as a private security services training school under subsection  
195 B of § 9.1-139 shall employ or otherwise utilize, except as provided in § 9.1-141 and Board regulations,  
196 as a private security instructor, any person not possessing a valid instructor certification.

197 B. No compliance agent employed or otherwise utilized by a person licensed or required to be  
198 licensed under subsection A of § 9.1-139 shall:

199 1. Employ or otherwise utilize as an unarmed security officer, except as provided in this article, any  
200 individual for whom the compliance agent does not possess documentary evidence of compliance with,  
201 or exemption from, the compulsory minimum training standards established by the Board for unarmed  
202 security officers and *until December 31, 2002, maintain* documentary evidence that an investigation to  
203 determine suitability has been conducted.

204 2. Employ or otherwise utilize as an electronic security technician's assistant, except as provided in  
205 this article, any individual for whom the compliance agent does not possess documentary evidence of  
206 compliance with, or exemption from, the compulsory minimum training standards established by the  
207 Board for electronic security technician's assistants.

208 C. Any person convicted of a violation of subsections A or B shall be guilty of a Class 1  
209 misdemeanor.

210 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
211 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0**  
212 **for periods of commitment to the custody of the Department of Juvenile Justice.**