

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 511]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 9.1-139, 9.1-140, 9.1-145 and 9.1-149 of the Code of Virginia are amended and**  
8 **reenacted as follows:**

9 § 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses.

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

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

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

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

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

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

56 G. A licensed private security services business in the Commonwealth shall not employ as an

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unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central station dispatcher, electronic security sales representative, or electronic security technician, any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, except that such person may be so employed for not more than ninety days while completing compulsory minimum training standards.

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

I. The compliance agent of each licensed private security services business in the Commonwealth shall maintain documentary evidence that each private security registrant and certified employee employed by his private security services business has complied with, or been exempted from, the compulsory minimum training standards required by the Board ~~and. Before January 1, 2003, the compliance agent shall ensure~~ that an investigation to determine suitability of each unarmed security officer employee has been conducted, except that any such unarmed security officer, upon initiating a request for such investigation under the provisions of subdivision 11 of subsection A of § 19.2-389, may be employed for up to thirty days pending completion of such investigation. *After January 1, 2003, no person shall be employed as an unarmed security officer until he has submitted his fingerprints to the Department for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. Any person who was employed as an unarmed security officer prior to January 1, 2003, shall submit his fingerprints to the Department in accordance with subsection B of § 9.1-145.*

J. No person with a criminal conviction for 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 shall be (a) employed as a registered or certified employee by a private security services business or training school, or (b) issued a private security services registration, certification as an unarmed security officer, electronic security employee or technician's assistant, a private security services training school or instructor certification, compliance agent certification, or a private security services business license, except that, upon written request, the Director of the Department may waive such prohibition.

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

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

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

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

The provisions of this article shall not apply to:

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

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

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

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

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

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

7. Persons who conduct investigations as a part of the services being provided as a claims adjuster,

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; penalty.

A. Each applicant for *initial* registration, licensure or certification as a compliance agent, ~~or~~ private security services training school or instructor *or unarmed security officer* 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. *The Department shall use the applicant's fingerprints and personal descriptive information for the conduct of a National Criminal Records search and a Virginia Criminal History Records search.*

B. *Each currently certified unarmed security officer applying for renewal between January 1, 2003, and December 31, 2004, shall submit his fingerprints to the Department on a form provided by the Department. The Department shall use the applicant's fingerprints and personal descriptive information for the conduct of a National Criminal Records search and a Virginia Criminal History Records search.*

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 in the personal descriptive information required on the fingerprint card is 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

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

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

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

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

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

1. Employ or otherwise utilize as an unarmed security officer, except as provided in this article, any individual for whom the compliance agent does not possess documentary evidence of compliance with, or exemption from, the compulsory minimum training standards established by the Board for unarmed security officers and *before January 1, 2003, maintain* documentary evidence that an investigation to determine suitability has been conducted.

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

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

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