

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 9.1-138 and 9.1-140 of the Code of Virginia, relating to private security services businesses; computer or digital forensic services exception.*

[H 2271]

Approved

**Be it enacted by the General Assembly of Virginia:****1. That §§ 9.1-138 and 9.1-140 of the Code of Virginia are amended and reenacted as follows:****§ 9.1-138. Definitions.**

In addition to the definitions set forth in § 9.1-101, as used in this article, unless the context requires a different meaning:

"Alarm respondent" means an individual who responds to the signal of an alarm for the purpose of detecting an intrusion of the home, business or property of the end user.

"Armed" means a private security registrant who carries or has immediate access to a firearm in the performance of his duties.

"Armed security officer" means a natural person employed to (i) safeguard and protect persons and property or (ii) deter theft, loss, or concealment of any tangible or intangible personal property on the premises he is contracted to protect, and who carries or has access to a firearm in the performance of his duties.

"Armored car personnel" means persons who transport or offer to transport under armed security from one place to another, money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of security and certainty of delivery.

"Business advertising material" means display advertisements in telephone directories, letterhead, business cards, local newspaper advertising and contracts.

"Central station dispatcher" means an individual who monitors burglar alarm signal devices, burglar alarms or any other electrical, mechanical or electronic device used (i) to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; (ii) to prevent or detect intrusion; or (iii) primarily to summon aid for other emergencies.

"Certification" means the method of regulation indicating that qualified persons have met the minimum requirements as private security services training schools, private security services instructors, compliance agents, or certified detector canine handler examiners.

"Compliance agent" means an individual who owns or is employed by a licensed private security services business to ensure the compliance of the private security services business with this title.

"Computer or digital forensic services" means the use of highly specialized expertise for the recovery, authentication, and analysis of electronic data or computer usage.

"Courier" means any armed person who transports or offers to transport from one place to another documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious services.

"Detector canine" means any dog that detects drugs or explosives.

"Detector canine handler" means any individual who uses a detector canine in the performance of private security duties.

"Detector canine handler examiner" means any individual who examines the proficiency and reliability of detector canines and detector canine handlers in the detection of drugs or explosives.

"Detector canine team" means the detector canine handler and his detector canine performing private security duties.

"Electronic security business" means any person who engages in the business of or undertakes to (i) install, service, maintain, design or consult in the design of any electronic security equipment to an end user; (ii) respond to or cause a response to electronic security equipment for an end user; or (iii) have access to confidential information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security employee" means an individual who is employed by an electronic security business in any capacity which may give him access to information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security equipment" means (i) electronic or mechanical alarm signaling devices including burglar alarms or holdup alarms used to safeguard and protect persons and property; or (ii) cameras used to detect intrusions, concealment or theft, to safeguard and protect persons and property. This shall not include tags, labels, and other devices that are attached or affixed to items offered for sale, library

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57 books, and other protected articles as part of an electronic article surveillance and theft detection and  
58 deterrence system.

59 "Electronic security sales representative" means an individual who sells electronic security equipment  
60 on behalf of an electronic security business to the end user.

61 "Electronic security technician" means an individual who installs, services, maintains or repairs  
62 electronic security equipment.

63 "Electronic security technician's assistant" means an individual who works as a laborer under the  
64 supervision of the electronic security technician in the course of his normal duties, but who may not  
65 make connections to any electronic security equipment.

66 "Employed" means to be in an employer/employee relationship where the employee is providing  
67 work in exchange for compensation and the employer directly controls the employee's conduct and pays  
68 some taxes on behalf of the employee. The term "employed" shall not be construed to include  
69 independent contractors.

70 "End user" means any person who purchases or leases electronic security equipment for use in that  
71 person's home or business.

72 "Firearms training verification" means the verification of successful completion of either initial or  
73 retraining requirements for handgun or shotgun training, or both.

74 "General public" means individuals who have access to areas open to all and not restricted to any  
75 particular class of the community.

76 "Key cutting" means making duplicate keys from an existing key and includes no other locksmith  
77 services.

78 "License number" means the official number issued to a private security services business licensed by  
79 the Department.

80 "Locksmith" means any individual that performs locksmith services, or advertises or represents to the  
81 general public that the individual is a locksmith even if the specific term locksmith is substituted with  
82 any other term by which a reasonable person could construe that the individual possesses special skills  
83 relating to locks or locking devices, including use of the words lock technician, lockman, safe  
84 technician, safeman, boxman, unlocking technician, lock installer, lock opener, physical security  
85 technician or similar descriptions.

86 "Locksmith services" mean selling, servicing, rebuilding, repairing, rekeying, repinning, changing the  
87 combination to an electronic or mechanical locking device; programming either keys to a device or the  
88 device to accept electronic controlled keys; originating keys for locks or copying keys; adjusting or  
89 installing locks or deadbolts, mechanical or electronic locking devices, egress control devices, safes, and  
90 vaults; opening, defeating or bypassing locks or latching mechanisms in a manner other than intended by  
91 the manufacturer; with or without compensation for the general public or on property not his own nor  
92 under his own control or authority.

93 "Natural person" means an individual person.

94 "Personal protection specialist" means any individual who engages in the duties of providing close  
95 protection from bodily harm to any person.

96 "Private investigator" means any individual who engages in the business of, or accepts employment  
97 to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition,  
98 or recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to persons or to  
99 property; or (iv) evidence to be used before any court, board, officer, or investigative committee.

100 "Private security services business" means any person engaged in the business of providing, or who  
101 undertakes to provide, armored car personnel, security officers, personal protection specialists, private  
102 investigators, couriers, security canine handlers, security canine teams, detector canine handlers, detector  
103 canine teams, alarm respondents, locksmiths, central station dispatchers, electronic security employees,  
104 electronic security sales representatives or electronic security technicians and their assistants to another  
105 person under contract, express or implied.

106 "Private security services instructor" means any individual certified by the Department to provide  
107 mandated instruction in private security subjects for a certified private security services training school.

108 "Private security services registrant" means any qualified individual who has met the requirements  
109 under this article to perform the duties of alarm respondent, locksmith, armored car personnel, central  
110 station dispatcher, courier, electronic security sales representative, electronic security technician,  
111 electronic security technician's assistant, personal protection specialist, private investigator, security  
112 canine handler, detector canine handler, unarmed security officer or armed security officer.

113 "Private security services training school" means any person certified by the Department to provide  
114 instruction in private security subjects for the training of private security services business personnel in  
115 accordance with this article.

116 "Registration" means a method of regulation whereby certain personnel employed by a private  
117 security services business are required to register with the Department pursuant to this article.

"Registration category" means any one of the following categories: (i) unarmed security officer and armed security officer/courier, (ii) security canine handler, (iii) armored car personnel, (iv) private investigator, (v) personal protection specialist, (vi) alarm respondent, (vii) central station dispatcher, (viii) electronic security sales representative, (ix) electronic security technician, (x) electronic technician's assistant, (xi) detector canine handler, or (xii) locksmith.

"Security canine" means a dog that has attended, completed, and been certified as a security canine by a certified security canine handler instructor in accordance with approved Department procedures and certification guidelines. "Security canines" shall not include detector dogs.

"Security canine handler" means any individual who utilizes his security canine in the performance of private security duties.

"Security canine team" means the security canine handler and his security canine performing private security duties.

"Supervisor" means any individual who directly or indirectly supervises registered or certified private security services business personnel.

"Unarmed security officer" means a natural person who performs the functions of observation, detection, reporting, or notification of appropriate authorities or designated agents regarding persons or property on the premises he is contracted to protect, and who does not carry or have access to a firearm in the performance of his duties.

§ 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 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.

21. Any person whose occupation is limited to the technical reconstruction of the cause of accidents involving motor vehicles as defined in § 46.2-100, regardless of whether the information resulting from the investigation is to be used before a court, board, officer, or investigative committee, and who is not otherwise a private investigator as defined in § 9.1-138.

22. Retail merchants performing locksmith services, selling locks or engaged in key cutting activities conducted at the business location who do not represent themselves to the general public as locksmiths.

23. Law enforcement, fire, rescue, emergency service personnel, or other persons performing locksmith services in an emergency situation without compensation and who do not represent themselves to the general public as locksmiths.

24. Motor vehicle dealers as defined in § 46.2-1500 performing locksmith services who do not represent themselves to the general public as locksmiths.

25. Taxicab and towing businesses performing locksmith services that do not represent themselves to the general public as locksmiths.

26. Contractors licensed under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 performing locksmith services when acting within the scope of such license who do not represent themselves to the general public as locksmiths.

27. Any contractor as defined in § 54.1-1100 (i) who is exempt from the licensure requirements of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, (ii) where the total value referred to in a single contract or project is less than \$1,000, (iii) when the performance of locksmith services is ancillary to the work performed by such contractor, and (iv) who does not represent himself to the general public as a locksmith.

28. Any individual, employed by a retail merchant that also holds a private security services business license as a locksmith, where such individual's duties relating to such license are limited to key cutting and the key cutting is performed under the direct supervision of the licensee.

29. Any individual engaged in (i) computer or digital forensic services as defined in § 9.1-138 or in the acquisition, review, or analysis of digital or computer-based information, in order to obtain or furnish information for evidentiary purposes or to provide expert testimony before a court, or (ii) network or system vulnerability testing, including network scans and risk assessment and analysis of computers connected to a network.