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## SENATE BILL NO. 1190

Offered January 9, 2013

Prefiled January 9, 2013

*A BILL to amend and reenact §§ 9.1-138, 9.1-139, and 9.1-149 of the Code of Virginia, relating to the Department of Criminal Justice Services; electronic security businesses.*

Patron—Martin

Referred to Committee for Courts of Justice

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

**1. That §§ 9.1-138, 9.1-139, and 9.1-149 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

INTRODUCED

SB1190

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

*"Electronic security personnel" means an individual who is employed by an electronic security business in the capacity of a central station dispatcher, electronic security sales representative, or electronic security technician.*

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

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

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

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

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

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

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

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

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

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

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

"Natural person" means an individual person.

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

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

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

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

"Private security services registrant" means any qualified individual who has met the requirements under this article to perform the duties of alarm respondent, locksmith, armored car personnel, ~~central station dispatcher~~, courier, ~~electronic security sales representative~~, ~~electronic security technician~~, *electronic security personnel*, electronic security technician's assistant, personal protection specialist,

private investigator, security canine handler, detector canine handler, unarmed security officer or armed security officer.

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

"Registration" means a method of regulation whereby certain personnel employed by a private 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~~ *electronic security personnel*, ~~(x)~~ (viii) *electronic security technician's assistant*, ~~(xi)~~ (ix) detector canine handler, or ~~(xii)~~ (x) 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.

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

A. No person shall engage in the private security services business or solicit private security services 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. *An individual may serve as the compliance agent for multiple private security services businesses provided that each private security services business for which the individual serves as compliance agent is provided with written notice.*

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. *A licensed electronic security business that limits training to its employees shall not be required to obtain certification as a private security services training school. The compliance agent of a licensed electronic security business shall ensure that all employees (i) have successfully completed a proprietary training program that complies with the provisions of this article or (ii) have successfully completed the training through a certified private security services training school.*

C. No person shall be employed by a licensed private security services business in the Commonwealth as armored car personnel, courier, armed security officer, detector canine handler, unarmed security officer, security canine handler, private investigator, personal protection specialist, alarm respondent, locksmith, ~~central station dispatcher,~~ ~~electronic security sales representative,~~ *electronic security personnel*, or electronic security technician's assistant; ~~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

182 Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other  
183 requirements of this article and Board regulations.

184 E. No person shall be employed by a licensed private security services business in the  
185 Commonwealth unless such person is certified or registered in accordance with this chapter.

186 F. A temporary registration may be issued in accordance with Board regulations for the purpose of  
187 awaiting the results of the state and national fingerprint search. However, no person shall be issued a  
188 temporary registration until he has (i) complied with, or been exempted from the compulsory minimum  
189 training standards established by the Board, pursuant to subsection A of § 9.1-141, for armored car  
190 personnel, couriers, armed security officers, detector canine handlers, unarmed security officers, security  
191 canine handlers, private investigators, personal protection specialists, alarm respondents, locksmith,  
192 central station dispatchers, electronic security sales representatives, electronic security technician's  
193 assistants, or electronic security ~~technicians~~ *personnel*, (ii) submitted his fingerprints to be used for the  
194 conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (iii)  
195 met all other requirements of this article and Board regulations. *A temporary registration as an*  
196 *electronic security sales representative shall not be issued unless (i) the Department has received*  
197 *documentation that initial training requirements have been satisfied and (ii) the results of the National*  
198 *Criminal Records search and the Virginia Criminal History Records search have been reviewed by the*  
199 *Department.*

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

210 H. A licensed private security services business in the Commonwealth shall not employ as an  
211 unarmed security officer, ~~electronic security technician's assistant~~, unarmed alarm respondent, ~~central~~  
212 ~~station dispatcher~~, ~~electronic security sales representative~~, or locksmith, or ~~electronic security technician~~,  
213 any person who has not complied with, or been exempted from, the compulsory minimum training  
214 standards established by the Board, pursuant to subsection A of § 9.1-141, except that such person may  
215 be so employed for not more than 90 days while completing compulsory minimum training standards.

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

222 J. The compliance agent of each licensed private security services business in the Commonwealth  
223 shall maintain documentary evidence that each private security registrant and certified employee  
224 employed by his private security services business has complied with, or been exempted from, the  
225 compulsory minimum training standards required by the Board. Before January 1, 2003, the compliance  
226 agent shall ensure that an investigation to determine suitability of each unarmed security officer  
227 employee has been conducted, except that any such unarmed security officer, upon initiating a request  
228 for such investigation under the provisions of subdivision A 11 of § 19.2-389, may be employed for up  
229 to 30 days pending completion of such investigation. After January 1, 2003, no person shall be  
230 employed as an unarmed security officer until he has submitted his fingerprints to the Department for  
231 the conduct of a National Criminal Records search and a Virginia Criminal History Records search. Any  
232 person who was employed as an unarmed security officer prior to January 1, 2003, shall submit his  
233 fingerprints to the Department in accordance with subsection B of § 9.1-145.

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

243 L. The Department may grant a temporary exemption from the requirement for licensure,

certification, or registration for a period of not more than 30 days in a situation deemed an emergency by the Department.

M. 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.

N. 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 90 days while completing compulsory minimum training standards, provided such person does not possess or have access to a firearm while serving as a driver.

**§ 9.1-149. 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 or electronic security personnel~~ 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, or electronic security personnel~~ 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.