

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 375

An Act to amend and reenact §§ 9.1-138, 9.1-141, and 9.1-143 of the Code of Virginia, relating to detector canine handlers and examiners and certification.

[H 2241]

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-138, 9.1-141, and 9.1-143 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.

"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 ~~or both drugs and 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 ~~or both drugs and 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 books, and other protected articles as part of an electronic article surveillance and theft detection and deterrence system.

"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 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 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, (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.

§ 9.1-141. Powers of Board relating to private security services business.

A. The Board may adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), establishing compulsory minimum, entry-level, in-service, and advanced training standards for persons employed by private security services businesses in classifications defined in § 9.1-138. The regulations may include provisions delegating to the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and Board regulations. In establishing compulsory training standards for each of the classifications defined in § 9.1-138, the Board shall be guided by the policy of this section to secure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section and Article 4 (§ 9.1-138 et seq.) of this chapter. The regulations may provide for *partial* exemption from such *compulsory, entry-level* training for persons having previous employment as law-enforcement officers for a *local, state or the federal government, to include units of the United States Armed Forces, or for persons employed in classifications defined in § 9.1-138*. However, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a law-enforcement officer *or whose employment as a private security services business employee* was terminated because of his misconduct or incompetence. The regulations may include *separate* provisions for partial exemption from compulsory training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department; ~~or for persons employed in classifications defined in § 9.1-138. However, no exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a private security services business employee was terminated because of his misconduct or incompetence.~~

B. The Board may enter into an agreement with other states for reciprocity or recognition of private security services businesses and their employees, duly licensed by such states. The agreements shall allow those businesses and their employees to provide and perform private security services within the Commonwealth to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses.

C. The Board may adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses that:

1. Establish the qualifications of applicants for registration, certification, or licensure under Article 4 (§ 9.1-138) of this chapter;

2. Examine, or cause to be examined, the qualifications of each applicant for registration, certification, or licensure, including when necessary the preparation, administration and grading of examinations;

3. Certify qualified applicants for private security training schools and instructors or license qualified applicants as practitioners of private security services businesses;

4. Levy and collect fees for registration, certification, or licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of registration, certification, and licensure for private security services businesses and training schools;

5. Are necessary to ensure continued competency, and to prevent deceptive or misleading practices by practitioners and effectively administer the regulatory system adopted by the Board;

6. Receive complaints concerning the conduct of any person whose activities are regulated by the Board, to conduct investigations, and to take appropriate disciplinary action if warranted; and

7. Revoke, suspend or fail to renew a registration, certification, or license for just cause as enumerated in Board regulations.

D. In adopting its regulations under subsections A and C, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.

§ 9.1-143. Private Security Services Advisory Board; membership.

The Private Security Services Advisory Board is established as an advisory board within the meaning of § 2.2-2100, in the executive branch of state government. The Private Security Services Advisory

Board shall consist of 15 members as follows: two members shall be private investigators; two shall be representatives of electronic security businesses; two members shall be representatives of locksmith businesses; three shall be representatives of private security services businesses providing security officers, armed couriers, *detector canine handlers*, or ~~guard dog~~ *security canine* handlers; one shall be a representative of a private security services business providing armored car personnel; one shall be a representative of a private security services business involving personal protection specialists; one shall be a certified private security services instructor; one shall be a special conservator of the peace appointed pursuant to § 19.2-13; one shall be a licensed bail bondsman and one shall be a representative of law enforcement. The Private Security Services Advisory Board shall be appointed by the Criminal Justice Services Board and shall advise the Criminal Justice Services Board on all issues relating to regulation of private security services businesses.