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HOUSE BILL NO. 807

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact §§ 9.1-141 and 9.1-185.2 of the Code of Virginia and to amend the Code of Virginia by adding in Article 6 of Chapter 4 of Title 18.2 a section numbered 18.2-60.5, relating to the use of electronic tracking devices; penalty.

Patron—May

Referred to Committee on Science and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-141 and 9.1-185.2 of the Code of Virginia are amended and that the Code of Virginia is amended by adding in Article 6 of Chapter 4 of Title 18.2 a section numbered 18.2-60.5 as follows:

§ 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.

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. *The Board shall adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000*

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59 *et seq.) concerning the use of electronic tracking devices pursuant to § 18.2-60.5 by persons licensed as*
60 *private investigators pursuant to this article. Such regulations shall only authorize a licensed private*
61 *investigator to use an electronic tracking device to locate an individual known to be a fugitive from*
62 *justice or to locate lost or stolen property or assets that have been awarded by a court. For purposes of*
63 *this subsection, "electronic tracking device" means an electronic or mechanical device that permits a*
64 *person to remotely determine or track the position and movement of another person.*

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

67 *§ 9.1-185.2. Powers of the Criminal Justice Services Board relating to bail bondsmen.*

68 *The Board shall have full regulatory authority and oversight of property and surety bail bondsmen.*

69 *The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe and*
70 *effective bail bonding within the Commonwealth. The Board's regulations shall include but not be*
71 *limited to regulations that (i) establish the qualifications of applicants for licensure and renewal under*
72 *this article; (ii) examine, or cause to be examined, the qualifications of each applicant for licensure,*
73 *including when necessary the preparation, administration, and grading of examinations; (iii) levy and*
74 *collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for*
75 *administration and operation of a program of licensure; (iv) ensure continued competency and prevent*
76 *deceptive or misleading practices by practitioners; (v) administer the regulatory system; (vi) provide for*
77 *receipt of complaints concerning the conduct of any person whose activities are regulated by the Board;*
78 *(vii) provide for investigations and appropriate disciplinary action if warranted; (viii) establish standards*
79 *for professional conduct, solicitation, collateral received in the course of business, firearms training and*
80 *usage, uniforms and identification, documentation and recordkeeping requirements, reporting*
81 *requirements, and methods of capture for the recovery of bailees; and (ix) govern the use of electronic*
82 *tracking devices by bail bondsmen in accordance with § 18.2-60.5; and (x) allow the Board to suspend,*
83 *revoke or refuse to issue, reissue or renew a license for just cause. The Board shall not adopt*
84 *compulsory, minimum, firearms training standards in excess of 24 hours per year for bail bondsmen. In*
85 *adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board*
86 *established pursuant to § 9.1-143.*

87 *§ 18.2-60.5. Unauthorized use of electronic tracking device; penalty.*

88 *A. Any person who installs, places, or uses an electronic tracking device through intentionally*
89 *deceptive means and without consent, or causes an electronic tracking device to be installed, placed, or*
90 *used through intentionally deceptive means and without consent, to track the location of any person is*
91 *guilty of a Class 3 misdemeanor.*

92 *B. The provisions of this section shall not apply to the installation, placement, or use of an*
93 *electronic tracking device by:*

94 *1. A law-enforcement officer, judicial officer, probation or parole officer, or employee of the*
95 *Department of Corrections when any such person is engaged in the lawful performance of official duties*
96 *and in accordance with other state and federal law;*

97 *2. The parent or legal guardian of a minor when tracking the minor;*

98 *3. A registered private investigator, as defined in § 9.1-138, when acting in accordance with*
99 *regulations established by the Criminal Justice Services Board, for the purposes of locating an*
100 *individual known to be a fugitive from justice or locating lost or stolen property or other assets that*
101 *have been awarded by a court;*

102 *4. A licensed bail bondsman, as defined in § 9.1-185, when acting in accordance with regulations*
103 *established by the Criminal Justice Services Board concerning the use of electronic tracking devices; or*

104 *5. The owner of fleet vehicles, when tracking such vehicles.*

105 *C. For the purposes of this section:*

106 *"Electronic tracking device" means an electronic or mechanical device that permits a person to*
107 *remotely determine or track the position and movement of another person.*

108 *"Fleet" means (i) one or more motor vehicles owned and operated by a single entity for business or*
109 *government purposes, (ii) motor vehicles held for lease or rental to the general public, or (iii) motor*
110 *vehicles held for sale by motor vehicle dealers.*

111 **2. That in adopting regulations concerning the use of electronic tracking devices by licensed**
112 **private investigators as required by this act, the Criminal Justice Services Board shall consider**
113 **any state or federal law, including any ruling by the Supreme Court of Virginia or the Supreme**
114 **Court of the United States, limiting the use of electronic tracking devices by law-enforcement**
115 **officers. Such regulations shall not allow licensed private investigators any greater authority to**
116 **utilize an electronic tracking device without consent than may be exercised by law-enforcement**
117 **officers when operating without a warrant.**