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HOUSE BILL NO. 395

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws
on February 23, 1994)

(Patron Prior to Substitute—Delegate Keating)

A *BILL to amend and reenact §§ 9-182, 9-183.1, 9-183.2, 9-183.3, 9-183.5, 9-183.7, 9-183.9 and 9-183.12 of the Code of Virginia, relating to training, licensing, and registration of electronic security businesses; penalty.*

Be it enacted by the General Assembly of Virginia:**1. That §§ 9-182, 9-183.1, 9-183.2, 9-183.3, 9-183.5, 9-183.7, 9-183.9 and 9-183.12 of the Code of Virginia are amended and reenacted as follows:**

§ 9-182. Compulsory training standards for private security services business personnel.

A. The Board shall have the power to issue regulations pursuant to Chapter 1.1:1 (§ 9-6.14:1 et seq.) of this title, establishing compulsory minimum, entry-level, in-service, and advanced training standards for persons employed by private security services businesses as ~~armored car personnel, or as couriers, guards, guard dog handlers, private investigators, or private detectives~~ as the foregoing in classifications are defined in § 9-183.1. ~~The regulations~~ and may include provisions in such regulations delegating to its the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and its regulations. In establishing by regulation compulsory training standards for each of the foregoing classifications defined in § 9-183.1, the Board shall be guided by the policy of this section which is to secure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section and Article 2.1 (§ 9-183.1 et seq.) of this title. The regulations may provide for exemption from such training for persons having previous employment as law-enforcement officers for a state or the federal government; 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 was terminated because of his misconduct or incompetence.

B. The Board shall have the power to promulgate regulations pursuant to the Administrative Process Act (§ 9-6.14:1 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 as follows:

1. To establish the qualifications of applicants for registration or licensure under Article 2.1 of Chapter 27 of this title;

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

3. To certify or license qualified applicants as practitioners of private security services businesses;

4. To levy and collect fees for registration or licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of registration and licensure for private security services businesses;

5. To promulgate regulations necessary to ensure continued competency, and to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system promulgated by the Board;

6. To 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. To revoke, suspend or fail to renew a registration or license for just cause as enumerated in regulations of the Board.

C. In promulgating its regulations under subsections A and B of this section, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9-183.5.

§ 9-183.1. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Alarm respondent" means a natural person who responds to the first signal of alarm of the home, business or property of the end user.

"Armed guard" means a guard, as defined below, who carries or has immediate access to a firearm or other deadly weapon 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.

"Board" means the Criminal Justice Services Board or any successor board or agency.

"Central station dispatcher" means a natural person who monitors burglar alarm signal devices,

60 *burglar alarms or any other electrical, mechanical or electronic device used to prevent or detect*
61 *burglary, theft, shoplifting, pilferage or similar losses; used to prevent or detect intrusion; or used*
62 *primarily to summon aid for other emergencies.*

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

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

68 "Department" means the Department of Criminal Justice Services or any successor agency.

69 "Electronic security business" means any person who engages in the business of or undertakes to (i)
70 distribute, sell, install, service, maintain, design or consult in the design of any electronic security
71 equipment to an end user or (ii) respond to or cause a response to electronic security equipment for an
72 end user.

73 "Electronic security employee" means a natural person who is employed by an electronic security
74 business in any capacity which may give him access to information concerning the design, extent or
75 status of an end user's electronic security equipment.

76 "Electronic security equipment" means electronic or mechanical alarm signaling devices including
77 burglar alarms or holdup alarms or cameras used to detect intrusions, concealment or theft.

78 "Electronic security sales representative" means a natural person who sells electronic security
79 equipment to the end user.

80 "Electronic security technician" means a natural person who installs, services, maintains or repairs
81 electronic security equipment.

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

84 "Guard" means any person employed by a private security services business to safeguard and protect
85 persons and property or to prevent theft, loss, or concealment of any tangible or intangible personal
86 property.

87 "Guard dog handler" means any person employed by a private security services business to handle
88 dogs in the performance of duty in protection of property or persons.

89 "Person" means any individual, group of individuals, firm, company, corporation, partnership,
90 business, trust, association, or other legal entity.

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

96 "Private security services business" means any person engaged in the business of providing, or who
97 undertakes to provide, (i) armored car personnel, guards, private investigators, private detectives,
98 couriers, or guard dog handlers, to another person under contract, express or implied or (ii) alarm
99 respondents, central station dispatchers, electronic security employees, electronic security sales
100 representatives or electronic security technicians to another person under contract, express or implied.

101 "Registration" means a method of regulation whereby certain personnel employed by a private
102 security services business are required to obtain a registration from the Department pursuant to this
103 article.

104 "Unarmed guard" means a guard who does not carry or have immediate access to a firearm or other
105 deadly weapon in the performance of his duties.

106 § 9-183.2. Exceptions.

107 The provisions of this article shall not apply to the following:

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

110 2. A person engaged exclusively in the business of obtaining and furnishing information regarding an
111 individual's financial rating or a person engaged in the business of a consumer reporting agency as
112 defined by the Federal Fair Credit Reporting Act.

113 3. An attorney licensed to practice in Virginia or his employees.

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

116 5. A person receiving compensation for private employment as a guard who also has full-time
117 employment as a law-enforcement officer employed by the Commonwealth or any political subdivision
118 thereof.

119 6. Any person appointed under § 56-277.1 or § 56-353 while engaged in the employment
120 contemplated thereunder, unless they have successfully completed training mandated by the Department.

121 7. Persons who are regularly employed to investigate accidents or to adjust claims and who do not

122 carry weapons in the performance of their duties.

123 8. Regular employees of persons engaged in other than the private security services business, where
 124 the regular duties of such employees primarily consist of protecting the property of their employers. Any
 125 such employee who carries a firearm and is in direct contact with the general public in the performance
 126 of his duties shall possess a valid registration with this Department as provided in subsection B of
 127 § 9-183.3. "General public" means individuals who have access to areas open to all and not restricted to
 128 any particular class of the community.

129 9. Persons, sometimes known as "shoppers," employed to purchase goods or services solely for the
 130 purpose of determining or assessing the efficiency, loyalty, courtesy, or honesty of the employees of a
 131 business establishment.

132 10. Licensed or registered private investigators from other states entering Virginia during an
 133 investigation originating in their state of licensure or registration when the other state offers similar
 134 reciprocity to private investigators licensed and registered by the Commonwealth of Virginia.

135 11. Unarmed regular employees of telephone public service companies where the regular duties of
 136 such employees consist of protecting the property of their employers and investigating the usage of
 137 telephone services and equipment furnished by their employers, their employers' affiliates, and other
 138 communications common carriers.

139 12. *An end user.*

140 13. *A material supplier who renders advice concerning the use of products sold by an electronics*
 141 *security business and who does not provide installation, monitoring, repair or maintenance services for*
 142 *electronic security equipment.*

143 § 9-183.3. Licensing and registration.

144 A. No person shall engage in the private security services business *including, on and after July 1,*
 145 *1995, the electronic security business* in this Commonwealth without having obtained a license from the
 146 Department. No person shall be issued a private security services business license until a compliance
 147 agent is designated in writing on forms provided by the Department. The compliance agent shall assure
 148 the compliance of the private security services business with this article and shall meet the qualifications
 149 and perform the duties required by the regulations promulgated by the Department.

150 B. No person shall be employed by a licensed private security services business in this
 151 Commonwealth as armored car personnel, courier, armed guard, guard dog handler, private investigator
 152 or private detective without possessing a valid registration issued by the Department. *On and after July*
 153 *1, 1995, no person shall be employed as an alarm respondent, central station dispatcher, electronic*
 154 *security sales representative or electronic security technician without possessing a valid registration*
 155 *issued by the Department.*

156 C. No person shall be issued a registration until he has (i) complied with, or been exempted from the
 157 compulsory minimum training standards established by the Board, pursuant to subsection A of § 9-182,
 158 for armored car personnel, couriers, armed guards, guard dog handlers, private investigators ~~or~~, private
 159 detectives, *alarm respondents, central station dispatchers, electronic security sales representatives or*
 160 *electronic security technicians* and (ii) submitted his fingerprints to be used for the conduct of a
 161 National Criminal Records search and a Virginia Criminal History Records search, and the results of
 162 such searches have been submitted to the Department; however, a temporary registration may be issued
 163 as provided in the regulation for the purpose of awaiting the results of the state and national fingerprint
 164 search.

165 ~~C.D.~~ A licensed private security services business in this Commonwealth shall not employ as an
 166 unarmed guard any person who has not complied with, or been exempted from, the compulsory
 167 minimum training standards established by the Board, pursuant to subsection A of § 9-182 for unarmed
 168 guards, except that such person may be so employed for not more than 120 days while completing
 169 compulsory minimum training standards.

170 ~~D.E.~~ The compliance agent of each licensed private security services business shall maintain
 171 documentary evidence that each unarmed guard employee has complied with, or been exempted from,
 172 the compulsory minimum training standards required by the Board for unarmed guards and that an
 173 investigation to determine suitability of each unarmed guard employee has been conducted, except that
 174 any such unarmed guard, upon initiating a request for such investigation under the provisions of
 175 subdivision 11 of subsection A of § 19.2-388, may be employed for up to thirty days pending
 176 completion of such investigation. No person with a criminal record of a misdemeanor involving moral
 177 turpitude or any felony shall be employed as an unarmed guard, except that, upon written request, the
 178 Director of the Department of Criminal Justice Services may waive such prohibition.

179 ~~E.F.~~ *On and after July 1, 1994, no person shall be employed as an electronic security employee until*
 180 *(i) he has submitted his fingerprints to be used for the conduct of a national criminal records search*
 181 *and a Virginia criminal history records search and (ii) the results of the searches have been submitted*
 182 *to the Department. However, a temporary authorization to work may be issued while awaiting the*

183 *results of the searches.*

184 G. The Department may grant a temporary exemption from the requirement of a license or
185 application for a registration for a period of not more than thirty days in a situation deemed an
186 emergency by the Department.

187 § 9-183.5. Private Security Services Advisory Board.

188 There shall be a Private Security Services Advisory Board which shall be composed of ~~eight~~ *ten*
189 members. Three of the members shall be private investigators, *two shall be representatives of electronic*
190 *security businesses*, and five ~~members~~ shall be persons *otherwise* engaged in the private security services
191 business. The Private Security Services Advisory Board shall be appointed by the Criminal Justice
192 Services Board and shall advise the Criminal Justice Services Board on all problems relating to
193 regulation of private security services businesses.

194 § 9-183.7. Fingerprints required.

195 Each applicant for registration under the provisions of this article *and every person employed as an*
196 *electronic security employee* shall submit his fingerprints to the Department on a form provided by the
197 Department.

198 § 9-183.9. Penalties.

199 A. It shall be a Class 1 misdemeanor for any person required to possess a registration under
200 subsection B of § 9-183.3 to be employed by a private security services business as armored car
201 personnel, courier, armed guard, guard dog handler, private investigator, ~~or~~ private detective, *alarm*
202 *respondent, central station dispatcher, electronic security sales representative or electronic security*
203 *technician* without possessing a valid registration.

204 B. It shall be a Class 1 misdemeanor for any person licensed or required to be licensed under
205 subsection A of § 9-183.3 to employ or otherwise utilize, as armored car personnel, courier, armed
206 guard, guard dog handler, private investigator, ~~or~~ private detective, *alarm respondent, central station*
207 *dispatcher, electronic security sales representative or electronic security technician*, any person not
208 possessing a valid registration.

209 C. It shall be a Class 1 misdemeanor for any compliance agent employed or otherwise utilized by a
210 person licensed or required to be licensed under § 9-183.3 A, to employ or otherwise utilize as an
211 unarmed guard, except as provided in this article, any individual for whom the compliance agent does
212 not possess documentary evidence of compliance with, or exemption from, the compulsory minimum
213 training standards established by the Board for unarmed guards and documentary evidence that an
214 investigation to determine suitability has been conducted.

215 § 9-183.12. Same; monetary penalty.

216 Any person licensed or registered by the Board pursuant to this article who violates any statute or
217 regulation pertaining to the Board who is not criminally prosecuted shall be subject to the monetary
218 penalty provided in this section. If the Board determines that a respondent is guilty of the violation
219 complained of, the Board shall determine the amount of the monetary penalty for the violation, which
220 shall not exceed ~~\$1,000~~ *2,500* for each violation. The penalty may be sued for and recovered in the
221 name of the Commonwealth.