

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 79

An Act to amend and reenact §§ 9-182, 9-183.1, 9-183.2, 9-183.3, 9-183.7, and 9-183.9 of the Code of Virginia, relating to compulsory training standards for private security services business personnel; definitions; licensing and registration; penalty.

[H 1691]

Approved March 7, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-182, 9-183.1, 9-183.2, 9-183.3, 9-183.7, and 9-183.9 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 in classifications defined in § 9-183.1. 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 its regulations. In establishing by regulation compulsory training standards for each of the 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. *The regulations may include provisions for partial exemption from such training for persons having previous training which meets or exceeds the minimum training standards and has been approved by the Department, or for persons employed in classifications defined in § 9-183.1; 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 private security services business employee 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 (§ 9-183.1) 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 an alarm for the purpose of detecting an intrusion of the home, business or property of the end user.

"Armed security officer" means a security officer, 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, burglar alarms or any other electrical, mechanical or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; used to prevent or detect intrusion; or used primarily to summon aid for other emergencies.

"Compliance agent" means a natural person 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.

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

"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 or (ii) respond to or cause a response to electronic security equipment for an end user.

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

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

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

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

"Electronic security technician's assistant" means a natural person 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.

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

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

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

"Personal protection specialist," on and after July 1, 1995, means any person who engages in the business of providing protection from bodily harm to another.

"Private investigator" means any person 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, (i) armored car personnel, security officers, personal protection specialists, private investigators, couriers, or guard dog handlers to another person under contract, express or implied or (ii) alarm respondents, central station dispatchers, electronic security employees, electronic security sales representatives or electronic security technicians to another person under contract, express or implied.

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

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

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

§ 9-183.2. Exceptions.

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

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

2. A person 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 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 who also has full-time employment as a law-enforcement officer employed by the Commonwealth or any political

subdivision thereof.

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

7. Persons who are regularly employed to investigate accidents or to adjust claims and who do not carry weapons in the performance of their duties.

8. Regular employees of persons engaged in other than the private security services business, where the regular duties of such employees primarily consist of protecting the property of their employers. Any such employee 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 this Department as provided in subsection B of § 9-183.3. "General public" means individuals who have access to areas open to all and not restricted to any particular class of the community.

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 of Virginia.

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.

§ 9-183.3. Licensing and registration.

A. No person shall engage in the private security services business including, on and after July 1, 1995, the electronic security business in this 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 assure the compliance of the private security services business with this article and shall meet the qualifications and perform the duties required by the regulations promulgated by the Department.

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

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

D. A licensed private security services business in this Commonwealth shall not employ as an unarmed security officer 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 § 9-182 for unarmed security officers, except that such person may be so employed for not more than 90 days while completing compulsory minimum training standards.

E. The compliance agent of each licensed private security services business *in the Commonwealth* shall maintain documentary evidence that each (i) unarmed security officer employee has complied with, or been exempted from, the compulsory minimum training standards required by the Board for unarmed security officers and that an investigation to determine suitability of each unarmed security officer employee has been conducted, except that any such unarmed security officer, upon initiating a request for such investigation under the provisions of subdivision 11 of subsection A of § 19.2-389, may be employed for up to thirty days pending completion of such investigation *and (ii) electronic security technician's assistant has complied with, or has been exempted from, the compulsory minimum training standards required by the Board for electronic security technician's assistants.* No person with a criminal record of a misdemeanor involving moral turpitude or any felony shall be employed as an unarmed security officer, except that, upon written request, the Director of the Department of Criminal Justice Services may waive such prohibition.

F. A licensed private security services business in the Commonwealth shall not employ as an electronic security technician's assistant 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 § 9-182 for electronic security technicians' assistants, except that such person may be employed for not more than ninety days while completing the compulsory minimum training standards.

No person shall be employed as an electronic security technician's assistant until he has submitted his fingerprints to the Department to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search.

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

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

I. For a period of one year from July 1, 1995, any person subject to the provisions of subsections A, B and C of this section who has actually been employed by an electronic security business as an electronic security technician for a period of three years, a central station dispatcher for a period of one year, an electronic security sales representative for a period of one year, or an alarm respondent for a period of one year immediately preceding the date of application, may be registered; however, the Department shall require such person to submit satisfactory proof of his (i) full-time active engagement in such employment for such period and (ii) compliance with all applicable fees and requirements set forth in this chapter. The renewal of any registration shall be contingent upon the fulfillment of all rules and regulations promulgated by the Board.

J. For a period of one year from July 1, 1995, any person subject to the provisions of subsections A, B and C of this section who has actually been employed as a personal protection specialist for the three years immediately preceding the date of application, may be registered; however, the Department shall require such person to submit satisfactory documentation that he has (i) successfully completed personal protection training approved by the Department, (ii) been engaged in such employment for such period, and (iii) complied with all applicable fees and requirements set forth in this chapter. The renewal of any registration shall be contingent upon the fulfillment of all rules and regulations promulgated by the Board.

§ 9-183.7. Fingerprints required.

Each applicant for registration under the provisions of this article and every person employed as an electronic security employee or electronic security technician's assistant shall submit his fingerprints to the Department on a form provided by the Department.

§ 9-183.9. Penalties.

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

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

C. It shall be a Class 1 misdemeanor for any compliance agent employed or otherwise utilized by a person licensed or required to be licensed under § 9-183.3 A, to 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 documentary evidence that an investigation to determine suitability has been conducted.

D. Except as provided by this article, it shall be a Class 1 misdemeanor for any compliance agent employed or otherwise utilized by a person licensed or required to be licensed under subsection A of § 9-183.3 to employ or otherwise utilize as an electronic security technician's assistant 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.