

CHAPTER 873

H.B. No. 888

AN ACT

relating to the continuation, powers, and duties of the Texas Board of Private Investigators and Private Security Agencies.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 2, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Subdivisions (5), (8), (13), (18), (19), (21), (22), and (26) and by adding Subdivisions (29), (30), and (31) to read as follows:

(5) "Alarm systems company" means any person that sells, installs, services, *monitors*, or responds to burglar alarm signal devices, burglar alarms, television cameras, still cameras or any other electrical, mechanical, or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage, and other losses of that type.

(8) "Guard dog company" means any person that places, leases, rents, ~~[or] sells, or trains a dog [an animal]~~ for the purpose of protecting individuals or property ~~or conducting investigations [and/or any person that trains an animal for the purpose of protecting individuals or property]~~.

(13) "Security ~~[Except as provided by Subsection (e) of Section 3 of this Act, "private security]~~ officer" means any individual employed by a security services contractor or the security department of a private business to perform the duties of a security guard, security watchman, security patrolman, armored car guard, courier guard, or alarm systems response runner.

(18) "Security officer commission" means an authorization granted by the board to an individual employed as a ~~[private]~~ security officer to carry a firearm.

(19) "Commissioned security officer" means any ~~[private]~~ security officer to whom a security officer commission has been issued by the board.

(21) "Registration" means a permit granted by the board to an individual to perform the duties of a private investigator, manager, branch office manager, alarm systems installer, noncommissioned ~~[private]~~ security officer, ~~[or]~~ private security consultant, *alarm systems monitor, or security sales person*.

(22) "Registrant" means an individual who has filed an application with the board to perform the duties of a private investigator, manager, branch office manager, alarm systems installer, noncommissioned ~~[private]~~ security officer, ~~[or]~~ private security consultant, *alarm systems monitor, or security sales person*.

(26) "Letter of authority" means a permit granted by the board entitling the security department of a private business *or a political subdivision of this state* to employ commissioned security officers.

(29) "Dog trainer" means an individual who, as the employee of a licensed guard dog company or investigations company, trains a dog for the purpose of protecting individuals or property or conducting investigations.

(30) "Security sales person" means an individual employed by a security services contractor to sell any services offered by the contractor.

(31) "Alarm systems monitor" means an individual who monitors burglar alarm signal devices, burglar alarms, television cameras, still cameras, or any other electrical, mechanical, or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage, or similar losses. The term does not include a person employed exclusively and regularly by an employer other than a licensee in connection with the affairs of that employer, and with whom the person has an employee-employer relationship.

SECTION 2. Section 3, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. EXCEPTIONS. (a) This Act does not apply to:

(1) a person employed exclusively and regularly by one employer in connection with the affairs of an employer only and where there exists an employer-employee relationship; provided, however, any person who shall carry a firearm in the course of his employment shall be required to obtain a private security officer commission under the provisions of this Act;

(2) except as provided by Subsection (d) [(e)] of this Section, an officer or employee of the United States of America, or of this State or a political subdivision of either, while the employee or officer is engaged in the performance of official duties;

(3) a person who has full-time employment as a peace officer as defined by Article 2.12, Code of Criminal Procedure, [1965,] who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, or watchman if such person is:

- (A) employed in an employee-employer relationship; or
- (B) employed on an individual contractual basis;
- (C) not in the employ of another peace officer; and
- (D) not a reserve peace officer;

(4) a person engaged exclusively in the business of obtaining and furnishing information for purposes of credit worthiness or collecting debts or ascertaining the financial responsibility of applicants for property insurance and for indemnity or surety bonds, with respect to persons, firms, and corporations;

(5) an attorney-at-law in performing his duties;

(6) admitted insurers, insurance adjusters, agents, and insurance brokers licensed by the State, performing duties in connection with insurance transacted by them;

(7) a person who engages exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(8) a locksmith who does not install or service detection devices, does not conduct investigations, and is not a security service contractor;

(9) a person who owns and installs burglar detection or alarm devices on his own property or, if he does not charge for the device or its installation, installs it for the protection of his personal property located on another's property, and does not install the devices as a normal business practice on the property of another;

(10) an employee of a cattle association who is engaged in inspection of brands of livestock under the authority granted to that cattle association by the Packers and Stockyards Division of the United States Department of Agriculture;

(11) the provisions of this Act shall not apply to common carriers by rail engaged in interstate commerce and regulated by state and federal authorities and transporting commodities essential to the national defense and to the general welfare and safety of the community;

(12) registered professional engineers practicing in accordance with the provisions of the Texas Engineering Practice Act;

(13) a person whose sale of burglar alarm signal devices, burglary alarms, television cameras, still cameras, or other electrical, mechanical, or electronic devices used for preventing or detecting burglary, theft, shoplifting, pilferage, or other losses is exclusively over-the-counter or by mail order;

(14) a person who holds a license or other form of permission issued by an incorporated city or town to practice as an electrician and who installs fire or smoke detectors in no building other than a single family or multifamily residence;

(15) a person or organization in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device if:

(A) the person or organization is a party to a contract that provides that the installation will be performed under the direct supervision of and inspected and certified by a person or organization licensed to install and certify such an alarm or detection device and that the licensee assumes full responsibility for the installation of the alarm or detection device; and

(B) the person or organization does not service or maintain burglar alarms or detection devices;

(16) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(17) response to a burglar alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity; ~~[or]~~

(18) a person who, by education, experience, or background has specialized expertise or knowledge such as that which would qualify or tend to qualify such person as an expert witness, authorized to render opinions in proceedings conducted in a court, administrative agency, or governing body of this state or of the United States, in accordance with applicable rules and regulations and who does not perform any other service for which a license is required by provisions of this Act;

*(19) a person who sells or installs automobile burglar alarm devices;*

*(20) a manufacturer, or a manufacturer's authorized distributor, who sells to the holder of a license under this Act equipment used in the operations for which the holder is required to be licensed; or*

*(21) a person employed as a noncommissioned security officer by a political subdivision of this state.*

(b) Licensees and employees of licensees under the provisions of this Act shall not be required to obtain any authorization, permit, franchise, or license from or pay any other fee or franchise tax to or post a bond in any city, county, or other political subdivision of this State to engage in business or perform any service authorized under this Act.

(c) Except as otherwise specifically provided in this subsection, no city, county, or other political subdivision of this State shall impose any charge, service charge, fee, or any other type of payment for the use of city, county, or other public facilities in connection with businesses or services rendered by the licensees under this Act, except that any city or town may levy and collect reasonable charges for the use of central alarm installations located in a police office, that is owned, operated, or monitored by such city or town. Provided further, that any city or town may require discontinuation of service of any alarm signal device which, because of mechanical malfunction or faulty equipment, causes at least five false alarms in any 12-month period. Such city or town may cause the disconnection of any such device until the same is repaired to the satisfaction of the appropriate municipal official, and the city or town may levy and collect reasonable inspection and reinspection fees in connection therewith. "Mechanical malfunction" and "faulty equipment" shall not relate, for the purposes of this section, to false alarms caused by human error or an act of God.

(d) Although under the provisions of this Act the security department of a private business that hires or employs an individual in the capacity of a private security officer to

possess a firearm in the course and scope of his duties is required to make application for a security officer commission for the individual according to the provisions of this Act, the security department of a private business shall not be required to make application to the board for any license under this Act.

(e) The provisions of this Act relating to security officer commissions apply to a person employed by a political subdivision whose duties include serving as a security guard, security watchman, or security patrolman on property owned or operated by the political subdivision if the governing body of the political subdivision files a written request with the board for the board to commission the political subdivision's employees with those duties. The board may not charge a fee for commissioning those officers. The board shall issue the officer a pocket card designating the political subdivision employing him. The commission expires when the officer's employment as a security officer by the political subdivision is terminated. The board may approve a security officer training program conducted by the political subdivision under the provisions of Section 20 of this Act applicable to approval of a private business' training program.

SECTION 3. The Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) is amended by adding Section 3A to read as follows:

*Sec. 3A. SELLER'S CERTIFICATE. (a) Except as provided by Subsection (c) of this section, the provisions of this Act do not apply to a person who sells burglar alarms or other devices for preventing or detecting burglary in a person's residence if:*

*(1) the person does not install, service, or maintain the burglar alarms or other devices;*

*(2) the person holds a valid seller's certificate issued by the board;*

*(3) the person has, as a precedent for obtaining a seller's certificate, submitted to the board an application for a seller's certificate which shall include the person's full name, residence telephone number, date and place of birth, and Social Security number, together with two color photographs taken within the past six months that show a facial likeness of the person and two sets of classifiable fingerprints;*

*(4) the person has paid to the board a seller's certificate fee as established by the board, but not to exceed \$25, which certificate shall be valid for a period of two years;*

*(5) there is filed with the board, either by the manufacturer, distributor, or sellers of such devices, a certificate evidencing insurance for liability for bodily injury or property damage arising from faulty or defective products in an amount not less than \$1 million combined single limit, provided that such policy of insurance need not relate exclusively to burglary devices;*

*(6) there has been filed with the board, either by the manufacturer, distributor, or sellers of such devices, a surety bond executed by a surety company authorized to do business in this state in the sum of \$10,000 in favor of the State of Texas, and any customer purchasing such devices in his home who does not receive delivery of the devices in accordance with the contract or agreement may bring an action against the bond to recover the down payment or purchase price actually paid; and*

*(7) the person is not employed by a security services contractor.*

*(b) The board shall approve an application for a seller's certificate and shall issue such certificate to an applicant unless the background check of the applicant discloses a felony conviction other than that for which a full pardon has been granted, or if any information provided in the application is false.*

*(c) It shall be unlawful and punishable as provided in Section 44 of this Act for any person who holds a current seller's certificate to install, service, monitor, or respond to burglar alarms or other devices used to prevent or detect burglary.*

*(d) Conviction for a violation of this section by a person subject to this section who has obtained a certificate constitutes a ground for the suspension or revocation of the person's seller's exemption certificate. The board may suspend or revoke the certificate after a hearing conducted in the manner provided by Section 11B of this Act.*

SECTION 4. Subsections (b) and (d), Section 4, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), are amended to read as follows:

(b) The position of director of the Texas Board of Private Investigators and Private Security Agencies is created. He shall serve as chief administrator of the board. He shall not be a member of the board, but shall be a full-time employee of the board, fully compensable in an amount to be determined by the Legislature. The director shall perform such duties as may be prescribed by the board. *The director and the employees of the board may not have a*, ~~and shall have no~~ financial or business ~~interest~~ [interests], contingent or otherwise, in any security services contractor or investigations company, *and may not be licensed under this Act.*

(d) The Texas Board of Private Investigators and Private Security Agencies is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished and this Act expires September 1, 1999 [1987].

SECTION 5. Section 5, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (d), and (e) and by adding Subsections (g) and (h) to read as follows:

(a) The board is composed of the following members:

(1) the director of the Texas Department of Public Safety or his designated representative shall serve as an ex officio member of such board, and such service shall not jeopardize the individual's official capacity with the State of Texas;

(2) the Attorney General or his designated representative shall serve as an ex officio member of such board, and such service shall not jeopardize the individual's official capacity with the State of Texas;

~~(3) three [one city or county law enforcement officer shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointee and with the advice and consent of the Senate;~~

~~[(4) two] members shall be appointed by the Governor, without regard to the race, creed, color, handicap, age, sex, religion, or national origin of the appointees and with the advice and consent of the Senate, who are citizens of the United States and residents of the State of Texas;~~

~~(4) [(5)] two members shall be appointed by the Governor, without regard to the race, creed, color, handicap, age, sex, religion, or national origin of the appointees and with the advice and consent of the Senate, who are licensed under this Act, who have been engaged for a period of five consecutive years as a private investigator or security services contractor, and who are not employed by the same person as any other member of the board; and~~

~~[(6) one member shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointee and with the advice and consent of the Senate, who:~~

~~[(A) is a senior supervisory or senior administrative official of the security department of a private business that employs commissioned security officers;~~

~~[(B) has served in the supervisory or administrative capacity for not less than five years; and~~

~~[(C) is not employed by a person who employs any other member of the board]~~

~~(5) one member shall be appointed by the Governor without regard to the race, creed, color, handicap, age, sex, religion, or national origin of the appointee and with the advice and consent of the Senate, who:~~

~~(A) is licensed under this Act as the owner or operator of a guard company;~~

~~(B) has operated for at least five consecutive years as a guard company; and~~

~~(C) is not employed by a person who employs any other member of the board.~~

~~(d) A person who is the spouse of an officer, employee, or paid consultant of a trade association in or on behalf of a profession related to the operation of the board~~

*may not be a member of the board and may not be an employee, including an employee exempt from the state's classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. [A member or employee of the board may not be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.] A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the board, may not serve as a member of the board or act as the general counsel to the board.*

- (e) It is a ground for removal from the board if a member:
- (1) does not have at the time of appointment the qualifications required by Subsection (a) or (b) of this section for appointment to the board;
  - (2) does not maintain during the service on the board the qualifications required by Subsection (a) or (b) of this section for appointment to the board;
  - (3) violates a prohibition established by Subsection (c) or (d) of this section; ~~or~~
  - (4) does not attend at least one-half of the regularly scheduled meetings held by the board in a calendar year, excluding meetings held when the person was not a member of the board; or

(5) *is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability.*

(g) *If the director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the board of the ground. The chairman of the board shall then notify the Governor that a potential ground for removal exists.*

(h) *For the purposes of this section, "trade association" means a nonprofit, cooperative, voluntarily joined association of business or professional competitors that is designed to assist its members and its industry or profession in dealing with mutual or professional problems and in promoting their common interests.*

SECTION 6. Section 10, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and by adding Subsections (d) and (e) to read as follows:

(c) *The director of the board or his designee shall develop a system under which the job performances [of annual performance evaluations] of the board's employees are evaluated annually [based on measurable job tasks]. All [Any] merit pay for board employees must [authorized by the director shall] be based on the system established under this subsection.*

(d) *The board shall inform its members and employees as often as is necessary of:*

- (1) *the qualifications for office or employment prescribed by this Act; and*
- (2) *their responsibilities under applicable laws relating to standards of conduct for state officers or employees.*

(e) *The board shall adopt policies that clearly define the respective responsibilities of the governing body of the board and the staff of the board.*

SECTION 7. The Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) is amended by adding Section 10A to read as follows:

*Sec. 10A. EQUAL EMPLOYMENT OPPORTUNITY. (a) The director shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity by which all personnel transactions are made without regard to race, creed, color, handicap, age, sex, religion, or national origin. The policy statement shall include:*

- (1) *personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;*
- (2) *a comprehensive analysis of the board's work force that meets federal and state guidelines;*

(3) procedures by which a determination can be made of significant underutilization, in the board's work force, of all persons of whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address areas of significant underutilization, in the board's work force, of all persons of whom federal or state guidelines encourage a more equitable balance.

(b) The policy statements must be filed with the governor's office, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 8. Section 11, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and by adding Subsection (e) to read as follows:

(c) ~~The [On or before January 1 of each year, the]~~ board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board in the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act.

(e) The board shall adopt policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

SECTION 9. Section 12(b), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The governor shall designate one member of the board as chairman. The governor shall designate the chairman without regard to the race, creed, color, handicap, age, sex, religion, or national origin of the designee. The board, including the representative of the director of the Department of Public Safety if he so designates one, shall elect from among its members a ~~chairman,~~ vice-chairman[,], and secretary to serve two-year terms commencing on September 1[,], of each odd-numbered year. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the board and perform the other duties prescribed in this Act.

SECTION 10. Section 12A, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12A. CONSUMER INFORMATION. (a) The board shall prepare information of ~~consumer~~ interest to consumers or recipients of services regulated under this Act describing the regulatory functions of the board and describing the board's procedures by which ~~consumer~~ complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies.

(b) The board by rule shall establish methods by which consumers or service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for the notification through inclusion of the information:

(1) on each registration form, application, or written contract for services of a person regulated under this Act;

(2) on a sign that is prominently displayed in the place of business of each person regulated under this Act; or

(3) in a bill for service provided by a person regulated under this Act. ~~[Each written contract for services in this state of a company licensed under this Act shall contain the name, mailing address, and telephone number of the board.]~~

~~[(c) There shall be displayed prominently in the place of business of each licensee regulated under this Act, a sign containing the name, mailing address, and telephone number of the board and a statement informing consumers that complaints against licensees can be directed to the board.]~~

SECTION 11. The Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) is amended by adding Section 14B to read as follows:

*Sec. 14B. RESTRICTIONS ON USE OF GUARD DOGS BY CERTAIN PERSONS. A person who has been convicted of cruelty to animals is ineligible for a license as a guard dog company under this Act and is also ineligible for registration as a dog trainer. Such a person may not be employed to work with dogs as a security officer by a security services contractor or security department of a private business that uses dogs to protect individuals or property or to conduct investigations.*

SECTION 12. Section 17, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Subsections (a) and (b) and by adding Subsection (d) to read as follows:

(a) *If the General Appropriations Act does not specify the amount of the fee, the board by rule shall establish reasonable and necessary fees that produce funds sufficient for the administration of this Act but that do not produce unnecessary fund balances and do not exceed the following amounts* ~~[The board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed]:~~

Class A license	\$225
(original and renewal)	
Class B license	225
(original and renewal)	
Class C license	340
(original and renewal)	
Reinstate suspended license	150
Assignment of license	150
Change name of license	75
Delinquency fee	—
Branch office certificate and renewal	150
Registration fee for private investigators, managers, branch office managers, and alarm <del>systems</del> <del>[system]</del> installers (original and renewal)	15
Registration fee for noncommissioned security officer	30
Registration fee for security sales person	15
Registration fee for alarm systems monitor	15
Registration fee for dog trainer	15
Registration fee for owner, officer, partner, or shareholder of a licensee	15
Registration fee for security consultants	50
<del>[License termination fee]</del>	<del>[10]</del>
<del>[Noncommissioned security officer upgrade fee]</del>	<del>[5]</del>
Security officer commission fee (original and renewal)	30 [15]
School instructor fee (original and renewal)	100
School approval fee (original and renewal)	250
Letter of authority fee for private businesses and political subdivisions (original and renewal)	225
FBI fingerprint check	25
Duplicate pocket card	10
Employee information update fee	10
Burglar alarm sellers renewal fee	25

(b) The State Auditor shall audit the financial transactions of the board *at least once during* ~~[in]~~ each ~~[fiscal]~~ biennium.



*(d) A Class A, Class B, or Class C license is valid for one year from the date of issuance. Registration as a private investigator, manager, branch office manager, alarm systems installer, security consultant, security sales person, alarm systems monitor, or dog trainer is valid for two years from the date of registration. Registration as an owner, officer, partner, or shareholder of a licensee is valid for two years from the date of registration. Registration as a noncommissioned security officer is valid for four years from the date of registration. A letter of authority, or a school approval or school instructor approval letter issued by the board, is valid for one year from the date of issuance. Other licenses or registrations issued under this Act are valid for the period specified by this Act or by board rule.*

SECTION 13. Section 19, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 19. FIREARM; SECURITY OFFICER COMMISSION. (a) It is unlawful and punishable as provided in Section 44 of this Act:

(1) for an individual employed as a [private] security officer to knowingly carry a firearm during the course of performing his duties as a [private] security officer if the board has not issued him a security officer commission under this section;

(2) for any person to hire or employ an individual or for any individual to accept employment in the capacity of a [private] security officer to carry a firearm in the course and scope of his duties unless the [private] security officer is issued a security officer commission by the board; or

(3) for a commissioned security officer to carry a firearm unless:

(A) he is engaged in the performance of his duties as a security officer or is engaged in traveling directly to or from his place of assignment;

(B) he wears a distinctive uniform indicating that he is a security officer; and

(C) the firearm is in plain view.

(b) The board, with the concurrence of the Texas Department of Public Safety, may issue a security officer commission to an individual employed as a uniformed [private] security officer provided the geographical scope of the security officer commission is restricted to one named county in the State of Texas and all counties contiguous to the named county, except as allowed in Subsection (c) of this section.

(c) The board, with the concurrence of the Texas Department of Public Safety, may issue a security officer commission that is broader in geographical scope within the State of Texas than that specified in Subsection (b) of this section if the broader scope is shown to be in the public interest and necessary to the performance of the duties of the [private] security officer.

(d) The board, with the concurrence of the Texas Department of Public Safety, shall issue a security officer commission to a qualified employee of an armored car company that is a carrier that has a permit from the proper federal or state regulatory authority to conduct the armored car business in accordance with the permit or certificate. A security officer commission issued to an employee of an armored car company shall be broad enough in its geographical scope to cover the county or counties in this state in which the armored car company has a permit or certificate to conduct its business.

(e) The employer of a [private] security officer who applies for a security officer commission must submit an application to the board on a form provided by the board. A [The] security department of a private business or of a political subdivision of this state that applies for a security officer commission for a person employed by the department must submit an application to the board for a letter of authority on a form provided by the board.

(f) No security officer commission may be issued to any individual who is under 18 years of age, who is a convicted felon, or who has committed any act which if committed by a licensee would be grounds for suspension or revocation of a license under this Act.

(g) The board shall send a copy of each application for a security officer commission to the Texas Department of Public Safety and to the sheriff of the county and the chief of police of the principal city of the county in which the applicant resides. A sheriff or chief

of police who wishes to object to the issuance of a security officer commission to a particular applicant may do so by mailing or otherwise delivering a written statement of his objection and his reasons to the board.

(h) If the board decides to issue a security officer commission over the objections of a sheriff or chief of police, it shall mail a notice of its decision to the objecting officer and give him an opportunity to request a hearing before the board to contest the board's decision. If the objecting officer files a request for a hearing within 30 days after the date the notice was mailed to him, the board shall set the matter for a hearing. The board may not issue a security officer commission over the objection of a sheriff or chief of police unless it finds at the hearing that there is good cause to issue the commission over the objection or, if no hearing is requested, until the time for requesting a hearing has passed.

(i) Each security officer commission issued under this section shall be in the form of a pocket card designed by the board, and shall identify the ~~[licensee or the security department of a private business by whom the holder of the]~~ security officer ~~[commission is employed]~~. A security officer commission expires *two years* ~~[on the date the license of the licensee who employs the officer expires or, if the officer is employed by the security department of a private business, one year]~~ after the date it is issued. ~~[No charge may be imposed for the pocket card.]~~

(j) If the holder of the security officer commission terminates his employment, ~~[with the licensee or the security department of a private business or transfers his residence to another county, he must return the pocket card to his employer and]~~ his employer must ~~notify [return the pocket card to]~~ the board within 14 days of the date of termination of the employment ~~[or transfer of business]~~.

~~(k) [The board shall provide by rule the procedure by which a licensee or the security department of a private business may issue a temporary security officer commission to a private security officer who has made application to the board for a security officer commission.]~~

~~[(4)]~~ Subsection (a) of this section does not apply to the holder of a valid temporary security officer commission issued under this section if the holder is in uniform and in possession of only one firearm and engaged in the performance of his duties.

*(l) The holder of a security officer commission who terminates his employment with one employer may transfer his security officer commission to a new employer if, not later than the 10th day after the date on which the holder begins new employment, the new employer notifies the board of the transfer of employment on a form prescribed by the board, accompanied by the employee information update fee.*

SECTION 14. Section 20, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. TRAINING PROGRAMS. (a) The board shall establish a basic training course for ~~[private]~~ security officers. The course must be offered and taught by schools and instructors approved by the board. To receive board approval, a school or an instructor must submit an application to the board on a form provided by the board. ~~[The board may approve a training course conducted by a licensee if the licensee offers the subjects listed in Subsection (b) of this section, and if the instructors of the training course are qualified instructors approved by the board. The board shall approve a training course conducted by the security department of a private business to train its own personnel, without regard to its curriculum, if it is adequate for the business' security purposes.]~~

(b) The basic training course approved by the board shall consist of a minimum of 30 hours and shall include:

- (1) legal limitations on the use of firearms and on the powers and authority of a ~~[private]~~ security officer;
- (2) familiarity with this Act;
- (3) field note taking and report writing;
- (4) range firing and procedure, and firearms safety and maintenance; and

(5) any other topics of security officer training curriculum which the board deems necessary.

(c) The board shall develop a commissioned security officer training manual to be used in the instructing and training of commissioned security officers.

(d) The board shall promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this Act.

(e) The board may not issue a security officer commission to an applicant employed by a licensee unless the applicant submits evidence satisfactory to the board that:

(1) he has completed the basic training course at a school or under an instructor approved by the board;

(2) he meets all qualifications established by this Act and by the rules of the board;

(3) he has satisfied his firearm training instructor that he has attained with a handgun a minimum average marksmanship competency of 160 out of 300 on an "Army L" target or a minimum of 80 out of 150 on an F.B.I. Silhouette target (N.R.A. B-27), at 50 feet with 10 shots slow fire, 10 shots time fire and 10 shots double-action or complies with the standards of marksmanship set by the board;

(4) he has satisfied his firearm training instructor that he has complied with the standards of marksmanship set by the board for minimum marksmanship competency with a shotgun.

~~(f) [The board may not issue a security officer commission to an applicant employed by the security department of a private business unless the applicant submits evidence satisfactory to the board that:~~

~~(1) he has completed an approved training course conducted by the security department of the business; and~~

~~(2) he meets all qualifications established by this Act and by the rules of the board.~~

~~(g)~~ In addition to the requirements of *Subsection* ~~[Subsections]~~ (e) ~~[and (f)]~~ of this section, the board by rules and regulations shall establish other qualifications for persons who are employed ~~[by licensees or the security department of a private business]~~ in positions requiring the carrying of firearms. These qualifications may include physical and mental standards, standards of good moral character, and other requirements that relate to the competency and reliability of individuals to carry firearms. The board shall prescribe appropriate forms and rules and regulations by which evidence that the requirements are fulfilled is presented. The board shall require commissioned security officers *and applicants for security officer commissions* ~~[at least once every 24 months]~~ to demonstrate proficiency in the use of firearms to the satisfaction of a firearm training instructor who is employed by a board approved training school. *An applicant for a security officer commission must demonstrate proficiency not later than the 60th day before the date on which the security officer commission is to be issued. A commissioned security officer must demonstrate proficiency not later than the 60th day before the date on which the commission is to be renewed.* The records of this proficiency shall be maintained by the school and available for inspection by the board.

~~(g) [(h)]~~ The board shall prescribe appropriate rules and regulations for the maintenance of records relating to persons issued security officer commissions by the board.

SECTION 15. Section 28(d), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

(d) No licensee or officer, director, partner, manager, or employee of a licensee shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he is connected in any way with the federal government, a state government, or any political subdivision of a state government. No licensee or officer, director, partner, manager, or employee of a licensee shall use a title, an insignia, or an identification card or wear a uniform containing the designation "police." This subsection does not prohibit a *commissioned security* ~~[an]~~ officer employed by a political subdivision *of this state* ~~[commissioned as provided by Subsection (e) of Section 3 of this Act]~~ from using a title, insignia, or identification card,

wearing a uniform, or making a statement indicating his employment by the political subdivision.

SECTION 16. Section 32, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 32. REGISTRATION. (a) An individual who is employed as a private investigator, manager, branch office manager, alarm systems installer, noncommissioned [private] security officer, [or] private security consultant, *security sales person, alarm systems monitor, or dog trainer, or who is an owner, officer, partner, or shareholder of a licensee, must register with the board as provided by board rule* [~~must register with the board within 10 days after the commencement of such employment~~].

(b) The minimum age of a person registered under this section [~~except an alarm systems installer,~~] shall be 18 years of age. [~~An alarm systems installer must be 16 years of age or older.~~]

(c) An employee of a licensee who is employed in a capacity that is not subject to mandatory registration under this section may register with the board on a voluntary basis.

(d) The board may promulgate by rule any additional qualifications of an individual registered under this section [~~as a private investigator, manager, branch office manager, alarm systems installer, noncommissioned private security officer, or private security consultant~~].

(e) *A person who hires a noncommissioned security officer must conduct a pre-employment check as prescribed by board rule.* [~~The board, with the concurrence of the Texas Department of Public Safety, shall issue a security officer commission to a registered uniformed noncommissioned private security officer on receipt of the noncommissioned security officer upgrade fee and presentation of evidence of completion of a board-approved training program. The geographical scope of the security officer commission is restricted to one named county and to each county contiguous to the named county, except as provided by Subsection (e) of Section 19 of this Act.~~]

SECTION 17. Section 33, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 33. APPLICATION FOR REGISTRATION. (a) The application for registration must be verified and must include:

(1) the full name, residence address, residence telephone number, date and place of birth, and the Social Security number of the applicant;

(2) a statement listing any and all names used by the applicant, other than the name by which he is currently known, together with an explanation setting forth the place or places where each name was used, the date or dates of each use, and a full explanation of the reasons why each such name was used. If the applicant has never used a name other than that by which he is currently known, this fact must be set forth in the statement;

(3) the name and address of the applicant's employer and applicant's consulting firm, the date the employment commenced, and a letter from the licensee requesting that the applicant be registered;

(4) the title of the position occupied by the applicant and a description of his duties;

(5) two recent photographs of the applicant, of a type prescribed by the board, and two classifiable sets of his fingerprints; and

(6) other information, evidence, statements, or documents, as required by the board.

(b) *The employer of the applicant shall make a reasonable attempt to verify the information required under Subsection (a)(1) of this section.*

(c) The board shall send a copy of each application for registration to the Texas Department of Public Safety and to the sheriff of the county and the chief of police of the principal city of the county in which the applicant resides. A sheriff or chief of police who wishes to object to the registration of a particular applicant may do so by mailing or otherwise delivering a written statement of his objection and his reasons to the board.

(d) [(e)] If the board decides to register a particular applicant over the objections of a sheriff or chief of police, it shall mail a notice of its decision to the objecting officer and give him an opportunity to request a hearing before the board to contest the board's decision. If the objecting officer files a request for a hearing within 30 days after the date the notice was mailed to him, the board shall set the matter for a hearing. The board may not register an applicant over the objection of a sheriff or chief of police unless it finds at the hearing that there is good cause to issue the registration over the objection or, if no hearing is requested, until the time for requesting a hearing has passed.

SECTION 18. Section 36, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 36. POCKET CARD: [ANNUAL] RENEWAL. (a) A [The] pocket card issued to a noncommissioned security officer shall be issued to the individual employee and is valid for four years. A pocket card issued to any other individual registered under Section 32 of this Act shall be issued to the individual's employer and is valid for two years. The pocket card must state the name of the individual who is registered.

(b) [~~of each registrant expires on the date the license of the licensee who employs the registrant expires.~~] On notification from the board the month before expiration of the registrant's pocket card, each registrant shall file for renewal of registration on a form designed by the board.

SECTION 19. Section 37, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 37. POCKET CARD: RETURN AND TRANSFER. (a) When an individual to whom a pocket card has been issued under Section 34 [32] of this Act terminates his position as a private investigator, manager, branch office manager, alarm systems installer, private security consultant, security sales person, alarm systems monitor, or dog trainer, or as an owner, officer, partner, or shareholder of a licensee, the individual shall return his pocket card to the licensee on termination of his employment [~~he shall return the pocket card to the licensee within five days after his date of termination~~].

(b) An individual who terminates his position as a noncommissioned security officer may retain the pocket card for use in future employment as provided by Subsection (c) of this section.

(c) An individual who is registered as a noncommissioned security officer may transfer the registration from one employer to another employer if, not later than the 10th day after the date on which the registrant begins new employment, the new employer notifies the board of the transfer of employment on a form prescribed by the board accompanied by the employee information update fee.

SECTION 20. Section 38, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 38. CANCELLATION OF CERTAIN POCKET CARDS. (a) Not later than the 14th day after the date on which the employment of a registered employee is terminated, [~~Within seven days after the licensee has received the pocket card of a terminated registered employee,~~] the licensee shall notify the board in writing of the termination, [~~mail or deliver the pocket card to the board for cancellation, along with a letter from the licensee~~] stating the date the registered employee terminated his employment [~~the date the licensee received the pocket card of the terminated registered employee,~~] and the cause for which or the conditions under which the registered employee terminated his employment.

(b) If the employee was registered as a private investigator, manager, branch office manager, alarm systems installer, private security consultant, security sales person, alarm systems monitor, or dog trainer, the licensee shall return the pocket card of the employee to the board.

(c) If the employee was registered as a noncommissioned security officer, the employee may retain the pocket card for use in future employment.

*(d) If a person ceases to be an owner, officer, partner, or shareholder of a licensee, the licensee shall return the pocket card held by that person to the board.*

SECTION 21. The Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) is amended by adding Section 39 to read as follows:

*Sec. 39. CRIMINAL HISTORY BACKGROUND CHECKS. (a) The board shall conduct a criminal history background check as provided by this section on each applicant for a license, registration, or security officer commission. To be eligible for a license, registration, or commission, the background check must not reveal that the applicant has committed an act that constitutes grounds for the denial of the license, registration, or commission.*

*(b) The board shall conduct a background check for an applicant for a security officer commission with the Texas Department of Public Safety. The applicant must receive the approval of the board based on the results of the Texas Department of Public Safety check before beginning employment as a commissioned security officer.*

*(c) The board shall conduct a background check for each application for any other position regulated under this Act with the Texas Department of Public Safety. To continue employment in a capacity regulated under this Act, the applicant must receive the approval of the board based on the results of that check not later than the 120th day after the date on which the applicant begins employment in that capacity.*

SECTION 22. Section 40, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and by adding Subsection (c) to read as follows:

*(b) No license shall be issued under this Act unless the applicant files with the board proof of a policy of public liability insurance on ~~[in the form of]~~ a certificate of insurance form prescribed by the board and executed by a local recording agent licensed in this state or a surplus lines agent licensed in this state. The policy of public liability insurance shall be conditioned to pay on behalf of the licensee all sums which the licensee becomes legally obligated to pay as damages because of bodily injury, ~~[limit of liability Fifty Thousand Dollars (\$50,000),]~~ property damage, ~~[limit of liability Twenty-five Thousand Dollars (\$25,000)],~~ or ~~[and]~~ personal injury, ~~[limit of liability Fifty Thousand Dollars (\$50,000),]~~ caused by an event ~~[occurrence]~~ involving the principal, its servants, officers, agents, or employees in the conduct of any business licensed under this Act. The insurance policy must contain minimum limits of \$100,000 per occurrence for bodily injury and property damage, and \$50,000 per occurrence for personal injury, with a minimum total aggregate amount of \$200,000 for all occurrences.*

*(c) If an applicant is unable to purchase liability insurance coverage from an insurer authorized to do business in this state, the applicant, with the approval of the State Board of Insurance, may purchase coverage from a surplus lines insurer that meets the requirements of Article 1.14-2 of the Insurance Code and rules adopted by the State Board of Insurance. The coverage must meet the minimum limits prescribed by Subsection (b) of this section.*

SECTION 23. Section 44, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

*(d) An offense under this Act may be prosecuted in Travis County or in the county in which the offense occurred.*

SECTION 24. Section 45, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by adding Subsections (h) and (i) to read as follows:

*(h) The board may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application. The person must pay to the board a fee that is equal to the examination fee for the license.*

*(i) At least 30 days before the expiration of a person's license or registration, the board shall send written notice of the impending expiration to the person at the person's last known address according to the records of the board.*

SECTION 25. Section 46.03(a), Penal Code, is amended to read as follows:

(a) The provisions of Section 46.02 of this code do not apply to a person:

(1) in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution;

(2) on his own premises or premises under his control unless he is an employee or agent of the owner of the premises and his primary responsibility is to act in the capacity of a [private] security guard to protect persons or property, in which event he must comply with Subdivision (5) of this subsection;

(3) traveling;

(4) engaging in lawful hunting, fishing, or other sporting activity if the weapon is a type commonly used in the activity;

(5) who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

(A) he is engaged in the performance of his duties as a security officer or traveling to and from his place of assignment;

(B) he is wearing a distinctive uniform; and

(C) the weapon is in plain view; or

(6) who is a peace officer.

SECTION 26. Sections 20A and 20B, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), are repealed.

SECTION 27. (a) This Act takes effect September 1, 1987.

(b) The policy statement required under Section 10A, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as added by Section 7 of this Act, must be filed not later than October 30, 1987.

(c) This Act applies only to the requirements for an application for licensure or registration, or renewal of a license or registration, that is filed with the Texas Board of Private Investigators and Private Security Agencies on or after September 1, 1987. An application filed before that date is covered by the law in effect on the date that the application is filed, and the former law is continued in effect for that purpose.

(d) A person who is serving on the Texas Board of Private Investigators and Private Security Agencies on the effective date of this Act is entitled to continue to serve until the expiration of that person's term. On the expiration of the term of the member who is a law enforcement officer and the member who is an official of the security department of a private business, the governor shall appoint members who meet the requirements of Section 5, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as amended by this Act.

SECTION 28. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 26, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 888 on May 31, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 30, 1987, by a viva-voce vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.