WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

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ENROLLED

HOUSE BILL No. 4690

(By Delegates Sarah Faircloth Collins,)
Huntwork, Brown, Linch & L. White

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Passed March 12, 1994

In Effect 90 Days From Passage
AN ACT to amend and reenact article eighteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to licensing private detectives or investigators, private detective or investigative firms, security guards and security guard firms; defining certain terms; establishing the eligibility requirements for license to conduct private investigation business; prescribing application requirements for license to conduct private investigation business; establishing requirements for employees of private detective firm or investigative firm; establishing the eligibility requirements for license to conduct security guard business; prescribing application requirements for license to conduct security guard business; establishing requirements for employees of security guard firm; prohibiting certain acts; providing for renewal of license; authorizing secretary of state to issue license; providing for revocation or suspension of license; defining a misdemeanor offense for violation of the article; and prescribing penalties therefor; creating a private cause of action for violation of the article; and providing for the disposition of fees.

Be it enacted by the Legislature of West Virginia:

That article eighteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 18. PRIVATE INVESTIGATIVE AND SECURITY SERVICES.

§30-18-1. Definitions.

For the purposes of this article, except where the context clearly requires otherwise, the following terms shall have the meanings ascribed to them:

(1) "Applicant" means a person who files a completed application as required by sections three and six of this article to be licensed to conduct a private investigation business or a security guard business. When a person other than a natural person is applying for a license, the applicant shall be the person whose qualifications are presented to meet the experience or education requirements of sections two or five of this article.

(2) "Private investigation business" means the business of doing an investigation or investigations, for hire, reward or any other type of remuneration, to obtain information about:

(A) A crime which is alleged to have occurred or is threatened to occur;

(B) The habits, activities, conduct, movements, location, associations, transactions, reputation or character of any person;

(C) The credibility of witnesses or other persons;

(D) The location or recovery of lost or stolen property;

(E) The causes or origins of any fire, accident or injury to any property, real or personal, or to identify or locate any person or persons responsible for any such fire, accident or injury;

(F) The truth or falsity of any statement or representation, whether written or oral, or of any type of depiction;

(G) Any matters which constitute evidence or which may lead to the discovery of evidence to be used before any judicial or quasijudicial tribunal, including, but not limited to, civil or criminal courts, administrative agencies, investigating committees, or boards of award
or arbitration;

(H) The whereabouts of any missing or kidnapped person;

(I) The affiliation, connection or relationship of any person with any corporation or other business entity, union, organization, society or association, or with any official, member or representative thereof;

(J) Any person or persons seeking employment in the place of any employee or employees who have quit work by reason of any strike; or

(K) The conduct, honesty, efficiency, loyalty or activities of employees, agents, contractors and subcontractors.

(3) “Firm license” means the license held by a person whom the secretary of state has authorized to operate a private detective investigative firm or security guard firm after such person has filed and completed an application pursuant to the application requirements contained in sections three or six and has satisfied the eligibility requirements contained in sections two or five.

(4) “Person” means a natural person, a group of persons or individuals acting individually or as a group, a corporation, company, partnership, association, society, firm, or any business organization or entity organized or existing under the laws of this or any other state or country;

(5) (A) “Private detective” or “private investigator” means a person who is licensed pursuant to the provisions of this article to conduct a private investigation business, as defined in subdivision (2) of this section, and who conducts such business individually and independently from any private detective or investigative firm;

(B) “Private detective” or “private investigator” does not include:

(i) Any individual while acting as an adjuster for an insurance company or companies;
(ii) Individuals employed exclusively and regularly by only one employer in connection with the affairs of such employer only;

(iii) An officer or employee of the United States, or any law-enforcement officer of this state or any political subdivision thereof, while such officer or employee is engaged in the performance of his official duties or while working for a private employer in his off-duty hours;

(iv) Attorneys or counselors-at-law or any employee or representative of such attorney or counselor;

(v) Any corporation duly authorized by this state to operate central burglar or fire alarm protection business; or

(vi) Any investigator of crime appointed by a prosecuting attorney of a county pursuant to the provisions of section two, article four, chapter seven of this code.

(6) "Private detective or investigative firm" means any private detective agency or business or any investigative agency or business that is operated by a licensed private detective or investigator and which employs one or more other persons who actually conduct the private investigation business as defined in subdivision (2) of this section.

(7) (A) "Security guard" means a person who is licensed pursuant to the provisions of this article to conduct a security guard business, as defined in subdivision (8) of this section, and who conducts such business individually and independently from a security guard firm.

(B) "Security guard" does not include a person who is employed exclusively and regularly by only one employer in connection with the affairs of such employer only, or a person who is otherwise hereinafter excluded from the requirements of this article;

(8) (A) "Security guard business" means the business of furnishing, for hire, reward or other remuneration, watchmen, guards, bodyguards, private patrolmen or
other persons, to:

(i) Protect property, real or personal, or any person;

(ii) To prevent theft, unlawful taking, misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, notes or other valuable documents, papers and articles of value; or

(iii) To furnish for hire, guard dogs or armored motor vehicle security services, in connection with the protection of persons or property;

(B) “Security guard business” does not include any activities or duties for which it is necessary to be trained and certified as a law-enforcement officer in accordance with the provisions of article twenty-nine, chapter thirty of this code.

(9) “Security guard firm” means any security guard agency or business that is operated by a licensed security guard and which employs one or more other persons who actually conduct a security guard business as defined in subdivision (8) of this section.

§30-18-2. Eligibility requirements for license to conduct the private investigation business.

(a) In order to be eligible for any license to conduct the private investigation business, an applicant shall:

(1) Be at least 18 years of age;

(2) Be a citizen of the United States or an alien who is legally residing within the United States;

(3) Not have had any previous license to conduct a private investigation business or to conduct a security guard business revoked or any application for any such licenses or registrations denied by the appropriate governmental authority in this or any other state or territory;

(4) Not have been declared incompetent by reason of mental defect or disease by any court of competent jurisdiction unless a court has subsequently determined that the applicant's competency has been restored;
(5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

(6) Be of good moral character;

(7) Have a minimum of two years of education or training in any one of the following areas, or some combination thereof:
   (A) Coursework that is relevant to the private investigation business at an accredited college or university;
   (B) Employment as a member of any United States government investigative agency, employment as a member of a state or local law-enforcement agency, or service as a sheriff;
   (C) Employment by a licensed private investigative or detective agency for the purpose of conducting the private investigation business; or
   (D) Any other substantially equivalent training or experience.

(8) Not have been convicted of a felony in this state or any other state or territory;

(9) Not have been convicted of any of the following:
   (A) Illegally using, carrying or possessing a pistol or other dangerous weapon;
   (B) Making or possessing burglar's instruments;
   (C) Buying or receiving stolen property;
   (D) Entering a building unlawfully;
   (E) Aiding an inmate's escape from prison;
   (F) Possessing or distributing illicit drugs;
   (G) Any misdemeanor involving moral turpitude or for which dishonesty of character is a necessary element; and

(10) Not have violated any provision of section eight of this article.

The provisions of this section shall not prevent the
§30-18-3. Application requirements for a license to conduct the private investigation business.

(a) To be licensed to be a private detective, a private investigator or to operate a private detective or investigative firm, each applicant shall complete and file a written application, under oath, with the secretary of state and in such form as the secretary may prescribe.

(b) On the application each applicant shall provide the following information: The applicant's name, birth date, citizenship, physical description, military service, current residence, residences for the preceding seven years, qualifying education or experience, the location of each of his or her offices in this state and any other information requested by the secretary of state in order to comply with the requirements of this article.

(c) In the case of a corporation that is seeking a firm license, the application shall be signed by the president, and verified by the secretary or treasurer of such corporation and shall specify the name of the corporation, the date and place of its incorporation, the names and titles of all officers, the location of its principal place of business, and the name of the city, town or village, stating the street and number, and otherwise such apt description as will reasonably indicate the location. If the corporation has been incorporated in a state other than West Virginia, a certificate of good standing from the state of incorporation must accompany the application. This information must be provided in addition to that required to be provided by the applicant.

(d) The applicant shall provide:
(1) Information in the application about whether the applicant has ever been arrested for or convicted of any crime or wrongs, either done or threatened, against the government of the United States;

(2) Information about offenses against the laws of West Virginia or any state; and

(3) Any facts as may be required by the secretary of state to show the good character, competency and integrity of the applicant.

To qualify for a firm license, the applicant shall provide such information for each person who will be authorized to conduct the private investigation business and for each officer, member or partner of the firm.

(e) As part of the application, each applicant shall give the secretary of state permission to review the records held by the division of public safety for any convictions that may be on record for the applicant.

(f) For each applicant for a license and for each officer, member and partner of the firm applying for a license, the application shall be accompanied by one recent full-face photograph and one complete set of the person's fingerprints.

(g) For each applicant, the application shall be accompanied by:

(1) Character references from at least five reputable citizens. Each reference must have known the applicant for at least five years preceding the application. No reference may be connected to the applicant by blood or marriage. All references must have been written for the purpose of the application for a license to conduct the private investigation business; and

(2) A license fee of fifty dollars if the applicant is an individual, or one hundred dollars if the applicant is a firm, or five hundred dollars if the applicant is a non-resident of West Virginia or a foreign corporation or business entity.

(h) All applicants for private detective or private investigator licenses or for private investigation firm
licenses shall file in the office of secretary of state a
surety bond. Such bond shall:

(1) Be in the sum of two thousand five hundred dollars
and conditioned upon the faithful and honest conduct of
such business by such applicant;

(2) Be written by a company recognized and approved
by the insurance commissioner of West Virginia and
approved by the attorney general of West Virginia with
respect to its form;

(3) Be in favor of the state of West Virginia for any
person who is damaged by any violation of this article.
The bond must also be in favor of any person damaged
by such a violation.

(i) Any person claiming against the bond required by
subsection (h) of this section for a violation of this article
may maintain an action at law against any licensed
individual or firm and against the surety. The surety
shall be liable only for damages awarded under section
twelve of this article and not the punitive damages
permitted under that section. The aggregate liability of
the surety to all persons damaged by a person or firm
licensed under this article may not exceed the amount
of the bond.

§30-18-4. Requirements for employees conducting the
private investigation business under a firm license.

(a) Any person who has a private detective firm or
investigative firm license shall be responsible for
supervising any employee or other individual who
conducts the private investigation business under the
authority of such person's firm license, regardless of
whether such employee or other individual receives
compensation for conducting such business. Such
supervision shall include providing any education or
training that is reasonably necessary to ensure com-
pliance with the requirements of this article.

(b) Any employee or individual who conducts the
private investigation business under the authority of a
private detective or investigative firm license shall:
(1) Satisfy the requirements of section two of this article, except that such person need not satisfy the education and training requirements contained in subdivision (7) of section two; and

(2) Authorize the secretary of state to review the records held by the division of public safety for any convictions that may be on record for such employee or individual.

(c) A holder of a private detective or investigative firm license is prohibited from authorizing any individual or employee to conduct a private investigation business if such individual does not comply with the requirements of this section.

(d) For every employee or individual who conducts the business of private investigation under the authority of a private detective or investigative firm license, the holder of such license must maintain a recent full-face photograph and one complete set of fingerprints on file at such firm’s central business location in this state. Upon request, the holder of the firm license must release the photographs and fingerprints to the secretary of state.

§30-18-5. Eligibility requirements to be licensed to conduct security guard business.

(a) In order to be eligible for any license to conduct security guard business, an applicant shall:

(1) Be at least eighteen years of age;

(2) Be a citizen of the United States or an alien who is legally residing within the United States;

(3) Not have had any previous license to conduct security guard business or to conduct the private investigation business revoked or any application for any such licenses or registrations denied by the appropriate governmental authority in this or any other state or territory;

(4) Not have been declared incompetent by reason of mental defect or disease by any court of competent jurisdiction unless said court has subsequently deter-
mined that the applicant's competency has been restored;

(5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

(6) Be of good moral character;

(7) Have had at least one year verified, full time employment conducting security guard business or conducting the private investigation business working for a licensed firm or have one year of substantially equivalent training or experience;

(8) Not have been convicted of a felony in this state or any other state or territory;

(9) Not have been convicted of any of the following:

(A) Illegally using, carrying or possessing a pistol or other dangerous weapon;

(B) Making or possessing burglar's instruments;

(C) Buying or receiving stolen property;

(D) Entering a building unlawfully;

(E) Aiding an inmate's escape from prison;

(F) Possessing or distributing illicit drugs;

(G) Any misdemeanor involving moral turpitude or for which dishonesty of character is a necessary element; and

(10) Not having violated any provision of section eight of this article.

The provisions of this section shall not prevent the issuance of a license to any person who, subsequent to his conviction, shall have received an executive pardon therefore, removing this disability.

§30-18-6. Application requirements for a license to conduct security guard business.

(a) To be licensed as a security guard or to operate a security guard firm, each applicant shall complete and file a written application, under oath, with the secretary
of state and in such form as the secretary may prescribe.

(b) On the application, each applicant shall provide
the following information: The applicant's name, birth
date, citizenship, physical description, military service,
current residence, residences for the preceding seven
years, qualifying education or experience, the location
of each of his or her offices in this state and any other
information requested by the secretary of state in order
to comply with the requirements of this article.

(c) In the case of a corporation that is seeking a firm
license, the application shall be signed by the president,
and verified by the secretary or treasurer of such
corporation and shall specify the name of the corpora-
tion, the date and place of its incorporation, the names
and titles of all officers, the location of its principal
place of business, and the name of the city, town or
village, stating the street and number, and otherwise
such apt description as will reasonably indicate the
location. If the corporation has been incorporated in a
state other than West Virginia, a certificate of good
standing from the state of incorporation must accom-
pany the application. This information shall be provided
in addition to that required to be provided the applicant.

(d) The applicant shall provide:

(1) Information in the application about whether the
applicant has ever been arrested for or convicted of any
crime or wrongs, either done or threatened, against the
government of the United States;

(2) Information about offenses against the laws of
West Virginia or any state; and

(3) Any facts as may be required by the secretary of
state to show the good character, competency and
integrity of the applicant.

To qualify for a firm license, the applicant shall
provide such information for each person who would be
authorized to conduct security guard business under the
applicant's firm license and for each officer, member or
partner in the firm.
(e) As part of the application, each applicant shall give the secretary of state permission to review the records held by the department of public safety for any convictions that may be on record for the applicant.

(f) For each applicant for a license and for each officer, member and partner of the firm applying for a license, the application shall be accompanied by one recent full-face photograph and one complete set of the person's fingerprints.

(g) For each applicant, the application shall be accompanied by:

(1) Character references from at least five reputable citizens. Each reference must have known the applicant for at least five years preceding the application. No reference may be connected to the applicant by blood or marriage. All references must have been written for the purpose of the application for a license to conduct security guard business; and

(2) A license fee of fifty dollars if the applicant is an individual, or one hundred dollars if the applicant is a firm, or five hundred dollars if the applicant is a non-resident of West Virginia or a foreign corporation.

(h) All applicants for security guard licenses or security guard firm licenses shall file in the office of secretary of state a surety bond. Such bond shall:

(1) Be in the sum of two thousand five hundred dollars and conditioned upon the faithful and honest conduct of such business by such applicant;

(2) Be written by a company recognized and approved by the insurance commissioner of West Virginia and approved by the attorney general of West Virginia with respect to its form;

(3) Be in favor of the state of West Virginia for any person who is damaged by any violation of this article. The bond must also be in favor of any person damaged by such a violation.

(i) Any person claiming against the bond required by subsection (h) of this section for a violation of this article
may maintain an action at law against any licensed individual or firm and against the surety. The surety shall be liable only for damages awarded under section twelve of this article and not the punitive damages permitted under that section. The aggregate liability of the surety to all persons damaged by a person or firm licensed under this article may not exceed the amount of the bond.

§30-18-7. Requirements for employees conducting security guard business under a firm license.

(a) Any person who has a security guard firm license shall be responsible for supervising any employee or other individual who conducts security guard business under the authority of such person’s firm license, regardless of whether such employee or other individual receives compensation for conducting such business. Such supervision shall include providing any education or training that is reasonably necessary to ensure compliance with the requirements of this article.

(b) Any employee or individual who conducts security guard business under the authority of a firm license shall:

(1) Satisfy the requirements of section five of this article, except that such person need not satisfy the prior employment requirements contained in subdivision (7) of section five; and

(2) Authorize the secretary of state to review the records held by the department of public safety for any convictions that may be on record for such employee or individual.

(c) A holder of a security guard firm license is prohibited from authorizing any individual or employee to conduct security guard business if such individual does not comply with the requirements of this section.

(d) For every employee or individual who conducts security guard business under the authority of a security guard firm license, the holder of such license must maintain a recent full-face photograph and one complete set of fingerprints on file at such firm’s central business
location in this state. Upon request, the holder of the
firm license must release the photographs and finger-
prints to the secretary of state.


(a) No person shall engage in the private investigation
business or security guard business without having first
obtained from the secretary of state a license to conduct
such business.

(b) All licensed persons, including private detectives,
private investigators, security guards, private detective
or investigative firms and security guard firms, are
prohibited from transferring their licenses to an
unlicensed person, firm or agency. This prohibition
includes contracting or subcontracting with an unli-
censed person, firm or agency to conduct the private
investigation business or security guard business.

(c) It is unlawful for any person subject to the
provisions of this article to knowingly commit any of the
following:

(1) Employ any individual to perform the duties of an
employee who has not first complied with all provisions
of this article and the adopted regulations;

(2) Falsely represent that a person is the holder of a
valid license;

(3) Make a false report with respect to any matter
with which he or she is employed;

(4) Divulge any information acquired from or for a
client to persons other than the client or his or her
authorized agent without express authorization to do so
or unless required by law;

(5) Accept employment which includes obtaining
information intended for illegal purposes;

(6) Authorize or permit another person to violate any
provision of this article or any rule of the secretary of
state adopted for this article.

A license granted under the provisions of this article shall be in effect for one year from the date the certificate of license is issued and may be renewed for a period of one year by the secretary of state upon application, in such form as the secretary may prescribe, and upon payment of the fee and the filing of the surety bond. At the time of applying for renewal of a license, the secretary of state may require any person to provide additional information to reflect any changes in the original application or any previous renewal.

§30-18-10. Authority of secretary of state.

(a) When the secretary of state shall be satisfied as to the good character, competency and integrity of an applicant, of all employees or individuals conducting the private investigation business or security guard services under a firm license and, if the applicant is a firm, of each member, officer or partner, he shall issue and deliver to such applicant a certificate of license. Each license issued shall be for a period of one year and shall be revocable at all times for cause shown pursuant to subsection (b) of this section or any rules promulgated pursuant thereto.

(b) The secretary of state shall have the authority to propose for promulgation in accordance with the provisions of chapter twenty-nine-a of this code such legislative rules as may be necessary for the administration and enforcement of this article and for the issuance, suspension and revocation of licenses issued under the provisions of this article. The secretary of state shall afford any applicant an opportunity to be heard in person or by counsel when a determination is made to deny, revoke or suspend any such applicant's license or application for license, including a renewal of a license. Such applicant shall have fifteen days from the date of receiving written notice of the secretary of state's adverse determination to request a hearing on the matter of denial, suspension or revocation. The action of the secretary of state in granting, renewing, or in refusing to grant or to renew, a license, shall be subject to review by the circuit court of Kanawha County or other court of competent jurisdiction.
(c) At any hearing before the secretary of state to challenge an adverse determination by the secretary of state on the matter of a denial, suspension or revocation of a license, if the adverse determination is based upon a conviction for a crime which would bar licensure under the provisions of this article, the hearing shall be an identity hearing only, and the sole issue which may be contested is whether the person whose application is denied or whose license is suspended or revoked is the same person convicted of the crime.


(a) Any person, licensed or unlicensed, who shall violate any of the provisions of this article is guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred dollars nor more than five thousand dollars or be confined in jail for not more than one year, or both.

(b) In the case of a violation of subsection (a) of section eight, a fine shall be assessed for each day that an individual conducted the private investigation business or security guard business. In the case of a firm license, the fine shall be based on each day that such services were provided multiplied by the number of unauthorized persons providing such services.


Any individual who is injured by a violation of this article may bring an action for recovery of damages, including punitive damages and plus reasonable attorney's fees and court costs.


All fees collected hereunder by the secretary of state shall be paid to the treasurer of the state and deposited in the general revenue fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th day of March, 1994.

Governor