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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

HOUSE BILL No. 4690

(By Delegates *Sarah Faircloth Collins,*  
*Huntwork, Brown, Litch & Z. White*)



Passed *March 12,* 1994

In Effect *90 Days From* Passage

**ENROLLED**  
**H. B. 4690**

(By DELEGATES SORAH, FAIRCLOTH, COLLINS, HUNTWORK,  
BROWN, LINCH AND L. WHITE)

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[Passed March 12, 1994; in effect ninety days from passage.]

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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.**

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

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

12 (2) "Private investigation business" means the busi-  
13 ness of doing an investigation or investigations, for hire,  
14 reward or any other type of remuneration, to obtain  
15 information about:

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

18 (B) The habits, activities, conduct, movements,  
19 location, associations, transactions, reputation or charac-  
20 ter of any person;

21 (C) The credibility of witnesses or other persons;

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

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

27 (F) The truth or falsity of any statement or represen-  
28 tation, whether written or oral, or of any type of  
29 depiction;

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

35 or arbitration;

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

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

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

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

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

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

62 (5) (A) "Private detective" or "private investigator"  
63 means a person who is licensed pursuant to the provi-  
64 sions of this article to conduct a private investigation  
65 business, as defined in subdivision (2) of this section, and  
66 who conducts such business individually and independ-  
67 ently from any private detective or investigative firm;

68 (B) "Private detective" or "private investigator" does  
69 not include:

70 (i) Any individual while acting as an adjuster for an  
71 insurance company or companies;

72 (ii) Individuals employed exclusively and regularly by  
73 only one employer in connection with the affairs of such  
74 employer only;

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

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

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

86 (vi) Any investigator of crime appointed by a prose-  
87 cuting attorney of a county pursuant to the provisions  
88 of section two, article four, chapter seven of this code.

89 (6) "Private detective or investigative firm" means any  
90 private detective agency or business or any investigative  
91 agency or business that is operated by a licensed private  
92 detective or investigator and which employs one or more  
93 other persons who actually conduct the private investi-  
94 gation business as defined in subdivision (2) of this  
95 section.

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

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

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

110 other persons, to:

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

112 (ii) To prevent theft, unlawful taking, misappropriation or concealment of goods, wares or merchandise,  
113 money, bonds, stocks, notes or other valuable documents,  
114 papers and articles of value; or  
115

116 (iii) To furnish for hire, guard dogs or armored motor  
117 vehicle security services, in connection with the protec-  
118 tion of persons or property;

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

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

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

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

3 (1) Be at least 18 years of age;

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

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

12 (4) Not have been declared incompetent by reason of  
13 mental defect or disease by any court of competent  
14 jurisdiction unless a court has subsequently determined  
15 that the applicant's competency has been restored;

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

18 (6) Be of good moral character;

19 (7) Have a minimum of two years of education or  
20 training in any one of the following areas, or some  
21 combination thereof:

22 (A) Coursework that is relevant to the private  
23 investigation business at an accredited college or  
24 university;

25 (B) Employment as a member of any United States  
26 government investigative agency, employment as a  
27 member of a state or local law-enforcement agency, or  
28 service as a sheriff;

29 (C) Employment by a licensed private investigative or  
30 detective agency for the purpose of conducting the  
31 private investigation business; or

32 (D) Any other substantially equivalent training or  
33 experience.

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

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

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

39 (B) Making or possessing burglar's instruments;

40 (C) Buying or receiving stolen property;

41 (D) Entering a building unlawfully;

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

43 (F) Possessing or distributing illicit drugs;

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

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

49 The provisions of this section shall not prevent the

50 issuance of a license to any person who, subsequent to  
51 his conviction, shall have received an executive pardon  
52 therefore, removing this disability.

53 (b) Any person who qualifies for a private investiga-  
54 tor's license shall also be qualified to conduct security  
55 guard business upon notifying the secretary of state in  
56 writing that the person will be conducting such  
57 business.

**§30-18-3. Application requirements for a license to  
conduct the private investigation business.**

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

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

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

29 (d) The applicant shall provide:



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

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

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

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

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

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

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

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

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

66 (h) All applicants for private detective or private  
67 investigator licenses or for private investigation firm

68 licenses shall file in the office of secretary of state a  
69 surety bond. Such bond shall:

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

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

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

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

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

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

11 (b) Any employee or individual who conducts the  
12 private investigation business under the authority of a  
13 private detective or investigative firm license shall:

14 (1) Satisfy the requirements of section two of this  
15 article, except that such person need not satisfy the  
16 education and training requirements contained in  
17 subdivision (7) of section two; and

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

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

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

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

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

3 (1) Be at least eighteen years of age;

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

6 (3) Not have had any previous license to conduct  
7 security guard business or to conduct the private  
8 investigation business revoked or any application for  
9 any such licenses or registrations denied by the appropri-  
10 ate governmental authority in this or any other state  
11 or territory;

12 (4) Not have been declared incompetent by reason of  
13 mental defect or disease by any court of competent  
14 jurisdiction unless said court has subsequently deter-

15 mined that the applicant's competency has been  
16 restored;

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

19 (6) Be of good moral character;

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

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

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

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

30 (B) Making or possessing burglar's instruments;

31 (C) Buying or receiving stolen property;

32 (D) Entering a building unlawfully;

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

34 (F) Possessing or distributing illicit drugs;

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

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

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

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

1 (a) To be licensed as a security guard or to operate  
2 a security guard firm, each applicant shall complete and  
3 file a written application, under oath, with the secretary

4 of state and in such form as the secretary may prescribe.

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

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

27 (d) The applicant shall provide:

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

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

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

37 To qualify for a firm license, the applicant shall  
38 provide such information for each person who would be  
39 authorized to conduct security guard business under the  
40 applicant's firm license and for each officer, member or  
41 partner in the firm.

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

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

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

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

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

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

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

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

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

78 (i) Any person claiming against the bond required by  
79 subsection (h) of this section for a violation of this article

80 may maintain an action at law against any licensed  
81 individual or firm and against the surety. The surety  
82 shall be liable only for damages awarded under section  
83 twelve of this article and not the punitive damages  
84 permitted under that section. The aggregate liability of  
85 the surety to all persons damaged by a person or firm  
86 licensed under this article may not exceed the amount  
87 of the bond.

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

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

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

13 (1) Satisfy the requirements of section five of this  
14 article, except that such person need not satisfy the  
15 prior employment requirements contained in subdivi-  
16 sion (7) of section five; and

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

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

25 (d) For every employee or individual who conducts  
26 security guard business under the authority of a security  
27 guard firm license, the holder of such license must  
28 maintain a recent full-face photograph and one complete  
29 set of fingerprints on file at such firm's central business

30 location in this state. Upon request, the holder of the  
31 firm license must release the photographs and finger-  
32 prints to the secretary of state.

**§30-18-8. Prohibitions.**

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

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

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

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

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

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

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

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

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

**§30-18-9. Renewal of license.**



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

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

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

12 (b) The secretary of state shall have the authority to  
13 propose for promulgation in accordance with the  
14 provisions of chapter twenty-nine-a of this code such  
15 legislative rules as may be necessary for the adminis-  
16 tration and enforcement of this article and for the  
17 issuance, suspension and revocation of licenses issued  
18 under the provisions of this article. The secretary of  
19 state shall afford any applicant an opportunity to be  
20 heard in person or by counsel when a determination is  
21 made to deny, revoke or suspend any such applicant's  
22 license or application for license, including a renewal of  
23 a license. Such applicant shall have fifteen days from  
24 the date of receiving written notice of the secretary of  
25 state's adverse determination to request a hearing on the  
26 matter of denial, suspension or revocation. The action of  
27 the secretary of state in granting, renewing, or in  
28 refusing to grant or to renew, a license, shall be subject  
29 to review by the circuit court of Kanawha County or  
30 other court of competent jurisdiction.

31 (c) At any hearing before the secretary of state to  
32 challenge an adverse determination by the secretary of  
33 state on the matter of a denial, suspension or revocation  
34 of a license, if the adverse determination is based upon  
35 a conviction for a crime which would bar licensure  
36 under the provisions of this article, the hearing shall be  
37 an identity hearing only, and the sole issue which may  
38 be contested is whether the person whose application is  
39 denied or whose license is suspended or revoked is the  
40 same person convicted of the crime.

**§30-18-11. Penalties.**

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

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

**§30-18-12. Action for damages.**

1 Any individual who is injured by a violation of this  
2 article may bring an action for recovery of damages,  
3 including punitive damages and plus reasonable attor-  
4 ney's fees and court costs.

**§30-18-13. Disposition of fees.**

1 All fees collected hereunder by the secretary of state  
2 shall be paid to the treasurer of the state and deposited  
3 in the general revenue fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten Signature]*  
-----  
Chairman Senate Committee

*Ernest C Moore*  
-----  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Darrell K. Rice*  
-----  
Clerk of the Senate

*Donald Z. Hoff*  
-----  
Clerk of the House of Delegates

*Steve Fontette*  
-----  
President of the Senate

*Paul Chambers*  
-----  
Speaker of the House of Delegates

The within *is approved* this the *30<sup>th</sup>*  
day of *March*, 1994.

*Gaston Capreol*  
-----  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/94

Time 9:37 am