

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 984

S. P. 344

In Senate, February 25, 1971

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Moore of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to the Regulation of Private Detectives.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 32, c. 55-A, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 55-A to read as follows:

CHAPTER 55-A

PRIVATE DETECTIVES

§ 3803. Definitions

As used in this chapter, the following words shall have the following meanings unless a different meaning is clearly required by the context:

1. "Licensee" means any person licensed under this chapter.
2. "Private detective business" means the business of private detective or private investigator.
3. "Private detective" or "private investigator" means a person engaged in business as a private detective or private investigator, including any person who, for hire, fee, reward or other consideration, uses a lie detector for the purpose of obtaining information with reference to the conduct, integrity, efficiency, loyalty or activities of any person or engages in the business of making investigations for the purpose of obtaining information with reference to any of the following matters, whether or not other functions or services are also performed for hire, fee, reward or other consideration, or other persons are employed to assist in making such investigations:

A. Crime or other acts committed or threatened against the laws or government of the United States or any state of the United States;

B. The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person;

C. Libels, fires, losses, accidents, or damage to, or loss or theft of, real or personal property;

D. Evidence to be used before any investigating committee, board of award, or board of arbitration, or in the trial of civil or criminal cases.

4. "Watch, guard or patrol agency" means the business of watch, guard or patrol agency, including the furnishing, for hire or reward, of watchmen, guards, private patrolmen or other persons to protect persons or property, to prevent the theft or the unlawful taking of goods, wares or merchandise, or the misappropriation or concealment thereof of money, bonds, stocks, notes or other valuable documents, papers or articles of value, or to procure the return thereof, whether or not other functions or services are also performed for hire or reward, or other persons are employed to assist therein.

§ 3804. When license required; exceptions; penalties

No person, firm, corporation or other legal entity shall engage in, advertise or hold himself out as being engaged in, nor solicit private detective business or the business of watch, guard or patrol agency, notwithstanding the name or title used in describing such business, unless licensed for such purpose as provided in section 3806. No licensed private detective or person licensed to engage in the private detective business may employ or engage any other person to act as a private detective or engage in the private detective business unless that person so employed or engaged has a license as provided in section 3806.

This section shall not apply to an agent, employee or assistant of a licensee, except as noted in the preceding paragraph with regard to certain persons employed or engaged by any licensed private detective or licensed private detective business; if its resident manager, superintendent or official representative is a licensee, nor to the following:

1. Government. A person employed by or on behalf of the State of Maine, including the Legislature, any committee of the Legislature or either of its branches, any special commission required to report to the Legislature, any political subdivision of the State, or any public instrumentality, while such person is engaged in the discharge of his official duties;

2. Charitable agency. A charitable, philanthropic or law enforcement agency, duly incorporated under the laws of the State of Maine, or any agent thereof while he is engaged in the discharge of his duties as such agent, provided that such agency is promoted and maintained for the public good and not for private profit;

3. Employees. A person employed as an investigator, detective, watchman, guard, patrolman, or employed or assigned to perform any of the

activities described in the definition "watch, guard or patrol agency" or whose duties include an inquiry into the fitness of an applicant for employment, in connection with the regular and customary business of his employer and whose services are not let out to another for profit or gain, but only while so acting for his employer ;

4. Credit reporting agency. A credit reporting bureau or agency whose business is principally the furnishing of information as to business and financial standing and credit responsibility ;

5. Personal investigations. Investigations as to the personal habits and financial responsibility of applicants for insurance or indemnity bonds, provided such investigations do not include other activities described in section 3810.

6. Attorneys. An attorney-at-law in the practice of his profession ;

7. Statistics. Investigations with respect to, or the compilation or dissemination of, any data or statistics pertaining to any business or industry, by any trade or business association, board or organization, incorporated or unincorporated, not operated for profit, representing persons engaged in such business or industry, or by any agent of any such trade or business association while he is engaged in the discharge of his duties as such agent ;

8. Insurance Adjuster. An insurance adjuster or investigator while acting in such capacity ;

9. Business Association. Any trade or business association, board or organization, incorporated or unincorporated, which furnishes as a service to members thereof, information pertaining to the business and financial standing, credit responsibility or reputation of persons with whom such members consider doing business, provided that an investigation conducted by such association, board or organization shall be no more extensive than is reasonably required to determine the business and financial standing, credit responsibility or reputation of such person ;

10. Genealogy. A person engaged in earning his livelihood by genealogical work and the compilation of family history while so engaged ;

11. Prior law. A person, firm, corporation or other legal entity possessing a valid license to engage in the private detective business under any prior existing provision of law, except that upon the expiration of such licenses as previously required by law, such persons shall be governed by this section.

Whoever violates any provisions of this section shall be punished by a fine of not less than \$200 nor more than \$1,000, or by imprisonment for not more than one year, or by both.

§ 3805. Application for license.

An application for a license to engage in the private detective business or a license to engage in the business of watch, guard or patrol agency shall be filed with the Secretary of State on forms furnished by him, and statements

of fact therein shall be under oath of the applicant. Such application shall include a certification by each of 3 reputable citizens of the State of Maine residing in the community in which the applicant resides or has a place of business, or in which the applicant proposes to conduct his business, that he has personally known the applicant for at least 3 years, that he has read the application and believes each of the statements made therein to be true, that he is not related to the applicant by blood or marriage, and that the applicant is honest and of good moral character. The applicant, or, if the applicant is a corporation, its resident manager, superintendent or official representative, shall be at least 25 years of age and of good moral character and, unless such application is for a license to engage in the business of watch, guard or patrol agency, shall have been regularly employed for not less than 3 years as a detective doing investigating work, a member of an investigative service of the United States or a police officer, of a rank or grade higher than that of patrolman, of the State of Maine or any political subdivision thereof.

§ 3806. To whom license may be granted; term and content; revocation; renewal

The Secretary of State may grant to an applicant complying with section 3805 a license to engage in the private detective business or a license to engage in the business of watch, guard or patrol agency provided that no such license shall be granted to any person who has been convicted in any state of the United States of a felony.

Such license shall be for one year, shall state the name under which the licensed business is to be conducted and the address of its principal office and shall be posted by the licensee in a conspicuous place in such office. Failure to comply with this paragraph shall constitute cause for revocation of such license.

The Secretary of State may annually renew and may at any time for cause, after notice and hearing, revoke any such license. An application for a renewal shall be on a form furnished by the Secretary of State.

§ 3807. Fees; bonds

1. Residents. The fee for an original license and for a renewal thereof for a resident of this State to engage in the private detective business shall be \$100; and the fee for an original license and renewal thereof for a resident of this State to engage in the watch, guard or patrol agency business shall be \$500.

Each resident licensed to engage in the private detective business shall give to the Secretary of State a bond in the sum of \$5,000; and each resident licensed to engage in the watch, guard or patrol agency business shall give to the Secretary of State a bond in the sum of \$15,000. All such bonds shall be executed by the licensee as principal and by a surety company authorized to do business as such in the State of Maine as surety. Such bond shall be in such form as the Secretary of State may prescribe, conditioned upon the honest conduct of the business of the licensee and the right of any person

including the officer of any aggrieved labor union or association whether or not incorporated, injured by the willful, malicious, wrongful or negligent act of the licensee to bring in his own name an action on the bond.

2. Nonresidents. The fee for an original license and for a renewal thereof for a nonresident of this State to engage in the private detective business shall be \$500; and the fee for an original license and renewal thereof for a nonresident of this State to engage in the watch, guard or patrol agency business shall be \$1,000.

Each nonresident licensed to engage in the private detective business shall give to the Secretary of State a bond in the sum of \$25,000; and each nonresident licensed to engage in the watch, guard or patrol agency business shall give to the Secretary of State a bond in the sum of \$25,000. All such bonds shall be executed by the licensee as principal and by a surety company authorized to do business as such in the State of Maine as surety. Such bond shall be in such form as the Secretary of State may prescribe, conditioned upon the honest conduct of the business of the licensee and the right of any person including the officer of any aggrieved labor union or association whether or not incorporated, injured by the willful, malicious, wrongful or negligent act of the licensee to bring in his own name an action on the bond.

§ 3808. Employment of assistants; penalty for making false statements or reports or divulging information

A licensee may employ to assist him in his business as many persons as he may deem necessary, except that a licensed private detective or licensed person engaged in the private detective business may not employ a person to act as a private detective or engage in the private detective business unless that person so employed or engaged has a license as provided in section 3806. No licensee may knowingly employ in connection with this business in any capacity any person who has been convicted of a felony or any former licensee whose license has been revoked.

If a licensee falsely states or represents that a person is or was in his employ, such false statement or misrepresentation shall be cause for revocation of his license. Whoever falsely states or represents that he has been a licensee or employed by a licensee shall be punished by a fine of not less than \$50 nor more than \$500.

No person shall be employed by any licensee until he shall have executed and furnished to such licensee a statement under oath setting forth his full name, date of birth and residence; his parents' names and places of birth; the business or occupation in which he has been engaged for the 3 years immediately preceding the date of filing his statement; and that he has not been convicted of a felony or of any offense involving moral turpitude. Such statements shall be kept on file by the licensee and furnished to the Secretary of State on demand.

Any person who is or has been an employee of a licensee and any licensee who divulges to anyone other than to his employer or as his employer shall direct, except before an authorized tribunal, any information acquired by

him during such employment in respect to any of the work to which he has been assigned by such employer, and any such employee who willfully makes a false report to his employer in respect to any such work, shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or by both.

§ 3809. Use of badges prohibited; exception; identification cards; penalties

No licensee or employee or agent of a licensee shall use a badge of any kind for identification purposes except a guard or watchman in uniform who shall wear any such badge on the left breast of his uniform. Such badge shall not contain the word "police" or any part of the seal of the State of Maine or of any political subdivision thereof. A licensee or his employee or agent may use as identification a card, approved as to form by the Secretary of State, which shall bear the signature of the licensee and, if such card is used as identification by an employee or agent, the signature of such employee or agent. A licensee, his agent or employee may carry only such weapons as the Secretary of State may authorize.

Whoever violates any provision of this section shall be punished by a fine of not more than \$50.

§ 3810. Prohibited activities in connection with strikes, labor disputes, etc.

1. Prohibitions. No licensee nor any of his employees shall knowingly:

A. Incite, encourage or aid any person who has become a party to any strike to commit any unlawful act against any person or property;

B. Incite, stir up, create or aid in the inciting of discontent or dissatisfaction among the employees of any person with the intention of having them strike;

C. Interfere with or prevent lawful and peaceful picketing during strikes;

D. Interfere with, restrain or coerce employees in the exercise of their right to form, join or assist any labor organization of their own choosing;

E. Interfere with or hinder lawful or peaceful collective bargaining between employers and employees;

F. Pay, offer to give any money, gratuity, consideration or other thing of value, directly or indirectly, to any person for any verbal or written report of the lawful activities of employees in the exercise of their right to organize, form or assist any labor organization and to bargain collectively through representatives of their own choosing;

G. Advertise for, recruit, furnish or replace or offer to furnish or replace for hire or reward, within or without the State of Maine, any skilled or unskilled help or labor, armed guards, other than armed guards theretofore regularly employed for the protection of payrolls, property or premises, for service upon property which is being operated in anticipation of or during the course or existence of a strike.

H. Furnish armed guards upon the highways for persons involved in labor disputes;

I. Furnish or offer to furnish to employers or their agents, any arms, munitions, tear gas implements or any other weapons;

J. Send letters or literature to employers offering to eliminate labor unions;

K. Advise any person of the membership of an individual in a labor organization for the purpose of preventing such individual from obtaining or retaining employment.

Whoever violates any provision of this section shall be punished by a fine of not less than \$200 nor more than \$1,000, or by imprisonment for not less than 6 months nor more than one year, or by both.

Sec. 2. R. S., T. 32, §§ 3801-3802, repealed. Sections 3801 and 3802 of Title 32 of the Revised Statutes are repealed.

STATEMENT OF FACT

The purpose of this bill is to more clearly define the licensing of private detectives in the State of Maine. The proposed legislation would eliminate the present ceiling of 50 private detectives in the State of Maine. In addition, the proposed Act would prohibit persons from acting as private detectives unless they are licensed. At the present no such prohibition exists in the law. The proposed Act includes an increased license fee and renewal of licenses every year and also provides much greater restrictions on the general activities of private detectives in the State of Maine.