

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2309

H. P. 2211

House of Representatives, March 18, 1976

Reported by Mr. Burns from the Committee on Legal Affairs pursuant to H. P. 1607 and printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

Filed under Joint Rule 3 pursuant to H. P. 1607.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

**AN ACT to Reform the Regulation of Watch, Guard and Patrol Agencies
and of Private Detectives.**

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

Sec. 1. 17-A MRSA § 15 is enacted to read:

§ 15. Arrests by a private citizen

1. Except as otherwise provided, a private citizen shall have the authority to arrest without a warrant if:

A. The private citizen has probable cause to believe that the person has committed or is committing criminal homicide in the first degree or criminal homicide in the 2nd degree or any Class A, Class B or Class C crime as defined in this Title; and

B. The person actually did commit or was committing one of the offenses listed in paragraph A.

2. A private citizen shall also have the authority to arrest without a warrant any person committing in his presence a breach of the peace. For the purposes of this section, a breach of the peace means a crime committed in public by violence or a crime causing an immediate disturbance of public order.

Sec. 2. 32 MRSA c. 54 is enacted to read:

CHAPTER 54

PRIVATE SECURITY GUARDS

§ 376I. Definitions

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

1. Armored car service. "Armored car service" means that service provided by any person transporting or offering to transport, under armed security guard, from one place or point, currency, jewels, stocks, bonds, paintings or other valuables in a specially equipped motor vehicle which offers a high degree of security.

2. Branch office. "Branch office" means any office of a licensee within the State other than its principal place of business.

3. Commissioner. "Commissioner" means the Commissioner of Public Safety.

4. Contract security company. "Contract security company" means any organization engaged in the business of providing, or which undertakes to provide, a security guard as defined in this section on a contractual basis for another person.

5. Identification card. "Identification card" means a card issued to a security guard by a licensee as evidence that the individual is qualified to work as a private security guard.

6. Licensee. "Licensee" means any person to whom a license is granted in accordance with this chapter.

7. Licensing authority. "Licensing authority" means the Commissioner of Public Safety.

8. Person. "Person" includes any individual, firm, association, company, partnership, corporation, nonprofit organization, institution or similar entity.

9. Principal corporate officer. "Principal corporate officer" means the president, vice-president, treasurer, secretary and comptroller, as well as any other person who performs functions for the corporation corresponding to those performed by the other officers defined in this section.

10. Proprietary security organization. "Proprietary security organization" means any organization or department of that organization which provides more than 5 full-time security guards, as defined in this section, solely for itself.

11. Qualifying agent. "Qualifying agent" means, in the case of a corporation, an officer or an individual in a management capacity, or in the case of a partnership, a general or unlimited partner meeting the experience qualifications set forth in this chapter for operating a contract security company.

12. Security guard. "Security guard" means an individual employed by the holder of a license issued pursuant to this chapter to principally perform any of the following functions:

- A. Protection of individuals or property from harm or theft of property of any kind;
- B. Prevention, observation or detection of any unauthorized activity on private property;
- C. Prevention of unlawful intrusion or entry, larceny, vandalism, abuse, arson or trespass on private property;
- D. Control, regulate or direct the flow or movements of the public, whether by vehicle, on foot or otherwise;
- E. Street patrol service; or
- F. Armored car service.

13. Security system. "Security system" means equipment designed to detect or signal an unauthorized intrusion so that security guards are expected to respond.

14. Street patrol service. "Street patrol service" means any contract security company or proprietary security organization utilizing foot patrols, motor vehicles or any other means of transportation on public thoroughfares in the prevention, observations or detection of, or apprehension of, any unlawful activity.

§ 3762. Licensing authority; established

1. Authority. The Commissioner of Public Safety shall have the authority to promulgate rules and regulations which are reasonable, proper and necessary to carry out the functions of the licensing of watch, guard and patrol agencies and to enforce the provisions of this chapter. The commissioner shall also establish procedures for the preparation and processing of applications, license certificates, identification cards, renewals, appeals, hearings, rule-making proceedings, and to determine whether or not the qualifications of licensees and security guards are consistent with this chapter.

2. Petition. Any interested person may petition the Commissioner of Public Safety to enact, amend or repeal any rule or regulation within the scope of subsection 1. The commissioner shall prescribe, by rule, the form for such petitions and procedures for their submission, consideration and disposition.

3. Rules and regulations reviewed by Legislature. Each rule and regulation promulgated by the commissioner shall be reviewed by the Legislature at the earliest opportunity and approved or disapproved by joint resolution. Unless disapproved, the rule or regulation shall remain in effect.

§ 3763. Subpoenas; oaths; contempt powers

1. Subpoenas and oaths. In any investigation conducted under this chapter, the Commissioner of Public Safety may issue subpoenas to compel the attendance of witnesses and the production of relevant books, accounts, records and documents. The officer conducting a hearing may administer oaths and may require testimony or evidence to be given under oath.

2. Petition. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the commissioner, the commissioner may petition the District Court to compel the witness to obey the subpoena or to give the evidence. The court shall promptly issue process to the witness and shall hold a hearing on the petition as soon as possible. -If the witness then refuses, without reasonable cause or legal grounds, to be examined or to give any evidence relevant to proper inquiry by the commissioner, the court may cite the witness for contempt.

§ 3764. Public notice of proposed rule-making

1. Notice. The Commissioner of Public Safety shall, prior to the adoption of any rule or regulation or the amendment or repeal thereof, notify all licensees within the State and publish a notice of the proposed action in each daily newspaper published in the State. He shall notify each city, town and plantation within the State of the change and request that this notice be publicly posted and give publicity to the proposal in such other manner as he regards appropriate. He shall afford interested persons an opportunity to submit within a reasonable time data and views either orally or in writing in a manner prescribed under his authority. This notice shall include:

- A. A statement of the time, place and nature of the public rule-making proceedings;
- B. Reference to the authority under which the rule-making is proposed; and
- C. Either the terms or substance of the proposed rule-making or a description in reasonable detail of the subjects and issues involved.

The publication or service of any notice required by this section shall be made not less than 30 days prior to the effective date of the proposed adoption, amendment or repeal of the rule or regulation, except as otherwise provided by the Commissioner of Public Safety upon good cause found and published with the notice.

§ 3765. Requirement for contract security company license

1. Establishment of security company or organization without license unlawful. It shall be unlawful and punishable as provided in section 3785 for any person to engage in the business of a contract security company or to establish a proprietary security organization within this State without having first obtained a license from the Commissioner of Public Safety.

2. Time to apply for license. On the effective date of this chapter, every person required to have a license shall have 60 days to apply to the Commissioner of Public Safety for this license. Any such person filing a timely application may continue to engage in security guard activities pending a final determination of such application.

§ 3766. Form of application

1. Procedure. Applications for licenses required by this chapter shall be filed with the Commissioner of Public Safety on a form provided by the com-

missioner. If the applicant is an individual, the application shall be subscribed and sworn to by such person. If the applicant is a partnership, the application shall be subscribed and sworn to by each partner. If the applicant is an individual and does not reside, operate any business or is not employed within the State, or in the event the applicant is a firm or partnership and no owner or general partner resides, operates a business or is employed within the State, then the application must also be subscribed and sworn to by the qualifying agent. If the applicant is a corporation, the application shall be subscribed and sworn to by at least one principal officer of the corporation. If the applicant is a corporation and none of its principal officers are responsible for the management and operations of the business within the State, the application shall also be subscribed and sworn to by the qualifying agent.

2. Application information. The application shall include the following information:

A. The full name and business address of the applicant and if the applicant is a corporation or partnership the name and address of the qualifying agent;

B. The name under which the applicant intends to do business;

C. The address of the principal place of business and all branch offices of the applicant within this State and the principal place of business outside the State, if any;

D. If the applicant is a corporation, the correct legal name, the state of corporation and the date if qualified to do business within this State;

E. A list of principal officers of the corporation and the business address, residence address and the office of position held by each such officer in the corporation;

F. As to each individual applicant, or if the applicant is a partnership, as to each partner, or if the applicant is a corporation, as to the qualifying agent, the following information:

(1) Full name;

(2) Age;

(3) Date and place of birth;

(4) All residences during the immediate past 5 years;

(5) All employment or occupations engaged in during the immediate past 5 years;

(6) Two classifiable sets of fingerprints;

(7) A photograph of a size prescribed by the Commissioner of Public Safety within the last 6 months;

(8) A general physical description;

(9) Letters from 3 reputable individuals not related by blood or marriage who have known the applicant or qualifying agent for 5 years or more, attesting to good moral character; and

(10) Three credit references from either lending institutions or business firms with whom the applicant has established a credit record;

G. As to each individual applicant and the qualifying agent for an applicant which is a partnership or corporation, a statement of experience that meets the qualifications set forth in section 3767;

H. As to each applicant which is a corporation or partnership, the names and addresses of each principal officer, director or partner, whichever is applicable, and, unless the stock of such corporation is listed on a national securities exchange or registered under section 12 of the Securities Exchange Act of 1934, as amended, the names and addresses of all stockholders;

I. The Commissioner of Public Safety may require that the application include any other information which he may reasonably deem necessary to determine whether the applicant or individual signing the application meets the requirements of this chapter or to establish the truth of the facts set forth in the application; and

J. Any individual signing a license application must be at least 18 years of age.

§ 3767. License qualifications

1. Qualifications. Every applicant, or in the case of a partnership each partner, or in the case of a corporation the qualifying agent, shall meet the following qualifications before he may engage in the business of a contract security company. He must:

A. Be 18 years of age;

B. Be a citizen of the United States or a resident alien;

C. Not have been declared, by any court of competent jurisdiction, incompetent by reason of mental defect or disease and not have been restored;

D. Not be suffering from habitual drunkenness or from narcotic addiction or dependence;

E. Not have been discharged from the Armed Services of the United States under dishonorable conditions;

F. Be of good moral character; and

G. Possess one year's experience as a manager, supervisor or administrator with a contract security company or proprietary security organization, or possess one year's supervisory experience approved by the Commissioner of Public Safety with any federal, U.S. military, state, county or municipal law enforcement agency.

2. **Qualifying agent; cease to perform duties.** In the event that the qualifying agent whom the licensee relies upon to comply with subsection 1, paragraph G, shall, within a period of 3 years after this compliance or qualification, and for any reason cease to perform his duties on a regular basis, the licensee shall promptly notify the Commissioner of Public Safety by certified or registered mail and shall make every effort to obtain, as promptly as possible, a substitute eligible individual acceptable to the commissioner. If the licensee fails to obtain the substitute eligible individual within 6 months from and after the disqualification of that individual, the commissioner may revoke the license, or for good cause shown, may extend for a reasonable time the period for obtaining a substitute qualifying agent.

3. **Corporation; Secretary of State to issue certificate of authority.** A corporation seeking a license shall be incorporated under the laws of this State or shall be duly qualified to do business within this State with a valid certificate of authority issued by the Secretary of State and an agent for service of process as required by law.

4. **Nonresident.** Any other nonresident person or organization seeking a license shall designate the Secretary of State or other authorized person as an agent for service of process as required by law.

5. **Convictions.** The application shall list the felony or misdemeanor convictions of the person applying.

§ 3768. License application; investigation

After receipt of an application for a license, the Commissioner of Public Safety shall conduct an investigation to determine whether the facts set forth in the application are true and shall compare the fingerprints of the individual or the individuals signing the application with criminal fingerprints filed with the State.

§ 3769. Action on license application

Within 30 days after receipt of an application, the Commissioner of Public Safety shall determine whether the applicant has met the requirements of this chapter. In the event that additional information is required from the applicant by the commissioner to complete his investigation or otherwise to satisfy the requirements of this chapter, or if the applicant has not submitted all of the required information, the 30-day period for action by the commissioner shall commence when all the information has been received by the commissioner.

§ 3770. Grounds for denial of application

The Commissioner of Public Safety may deny the application for a license if he finds that the applicant or the qualifying agent or any of the applicant's owners, partners or principal corporate officers have:

- A. Violated any of this chapter or the rules and regulations promulgated hereunder;
- B. Practiced fraud, deceit or misrepresentation;

C. Knowingly made a material misstatement in the application for a license; or

D. Not met the qualifications of section 3767, subsection 1.

§ 3771. Procedure for approval or denial of application; hearings

1. Application. The procedure of the Commissioner of Public Safety in approving or denying an application shall be as follows:

A. If the application is approved, the commissioner shall notify the applicant in writing that a license will be issued. Such notification shall state that the license so issued will expire in 2 years unless renewed in accordance with sections 3772 and 3773 and shall set forth the time within which application for renewal shall be made; or

B. If the application is denied, the commissioner shall notify the applicant in writing and shall set forth the grounds for denial. If the grounds for denial are subject to correction by the applicant, the notice of denial shall so state and the applicant shall be given 10 days after receipt of such notice, or upon application, a reasonable additional period of time within which to make the required correction.

2. Hearing upon denial. If the application is denied, the applicant may, within 30 days after receipt of notice of denial from the Commissioner of Public Safety, request a hearing on the denial. Within 10 days after the filing of the request for hearing by the applicant, the commissioner shall schedule a hearing to be held before him or an officer designated by him after due notice to the applicant. The hearing shall be held within 15 days after the notice is mailed to the applicant, unless postponed at the request of the applicant. The applicant shall have the right to make an oral presentation at the hearing, including the right to present witnesses and to confront and cross-examine adverse witnesses. Applicants may be represented by counsel. If the hearing is held before a hearing officer, the officer shall submit his report in writing to the commissioner within 10 days after the hearing. The commissioner shall issue his decision within 10 days after the hearing or within 10 days after receiving the report of the hearing officer. The decision of the commissioner shall be in writing and shall set forth his findings and conclusions. A copy of his findings and conclusions shall be promptly mailed to the principal office of the applicant within the State.

§ 3772. Renewal of license

Each license shall expire 2 years after its date of issuance. Application for renewal of a license shall be received by the Commissioner of Public Safety on a form provided by the commissioner no less than 30 days prior to the expiration date of the license, subject to the right of the commissioner to permit late filing upon good cause shown up to 2 months after the license expiration date. The commissioner may refuse to renew a license for any of the grounds set forth in section 3775, subsection 1, and he shall promptly notify the licensee of his intent to refuse to renew the license. The licensee may, within 15 days after receipt of such notice of intent to refuse to renew a license, request a hearing on such refusal in the manner prescribed by sec-

tion 3775, subsection 2. A licensee shall be permitted to continue to engage in security guard activities while his renewal application is pending.

§ 3773. Application; license and renewal fees

1. Application fee. The fee for a license application shall be \$200.
2. Renewal license fee. The fee for a license renewal shall be \$100.
3. Refund. Initial license application fees shall not be refundable, but if a license renewal application is denied, the fee shall be refunded.

§ 3774. License transferability

1. Transfer. No license issued pursuant to this chapter shall be assigned or transferred either by operation of law or otherwise.

2. Death of licensee. If the license is held by an owner other than a corporation and such owner dies, becomes disabled or otherwise ceases to engage in the business, the successor, heir, devisee or personal representative of such owner shall, within 60 days of the death, disablement or other termination of operation by the original licensee, apply for a license on a form prescribed by the Commissioner of Public Safety. The form shall include the same general information required by section 3766. The transferee shall be subject to the same general requirements and procedures set forth in sections 3767 through 3772 to the extent such sections are applicable.

3. Sale, assignment or transfer of business. In the event that a sale, assignment or transfer of a business licensed under this chapter is consummated, the purchaser, assignee or transferee shall, immediately upon consummation of this sale, assignment or transfer, apply for a license on a form prescribed by the Commissioner of Public Safety which shall include the general information required by section 3766. The purchaser, assignee or transferee shall be subject to the same general requirements and procedures set forth in sections 3767 through 3772 to the extent such sections are applicable.

4. Filing. With good cause, the commissioner may extend the period of filing the application required by subsections 2 and 3.

§ 3775. License revocation; hearings; appeals; notices

1. Revocation. Licenses may be revoked by the Commissioner of Public Safety in the manner hereinafter set forth if the licensee or any owners, partners, principal corporate officers or qualifying agent are:

A. Found to have violated any of the provisions of this chapter or any rule or regulation set by the commissioner, which violation the commissioner determines to reflect unfavorably upon the fitness of the licensee to engage in security guard activities;

B. Found to have knowingly and willfully given any false information of a material nature in connection with an application for a license or a renewal or reinstatement of a license or in a notice of transfer of a business licensed under this chapter;

C. Found to have been convicted in any jurisdiction of a felony or a misdemeanor if the commissioner determines that such conviction reflects unfavorably on the fitness of the applicant to engage in security guard activities;

D. Found to have committed any act while the license was not in effect which would be cause for the revocation of a license or grounds for denial of an application for a license; or

E. Found to have provided a level of training less than that required by section 3783.

2. Notice. Prior to revocation of a license, the Commissioner of Public Safety shall promptly notify the licensee of his intent to issue an order of revocation, setting forth in reasonable detail the grounds for revocation. Within 30 days of receipt of notice of intent to revoke from the commissioner, the licensee may request a hearing. Within 10 days after the filing of a request for a hearing by the licensee, the commissioner shall, upon due notice to the licensee, schedule a hearing to be held before the commissioner or an officer designated by the commissioner. The hearing shall be held within 15 days after the notice is mailed to the licensee, unless postponed at the request of the licensee. The licensee shall have the right to make an oral presentation at the hearing, including the right to present witnesses and to confront and cross-examine adverse witnesses. The licensee may be represented by counsel. If the hearing is held before a hearing officer, the officer shall submit his report in writing to the commissioner within 10 days after the hearing. The commissioner shall issue his decision within 10 days after the hearing or within 10 days after receiving the report of the hearing officer. The decision of the commissioner shall be in writing and shall set forth the commissioner's findings and conclusions. A copy thereof shall be promptly mailed to the principal office of the licensee within the State.

3. Receipt of final notice. Within 90 days after the licensee has exhausted all rights of appeal under this chapter, or if the licensee does not seek a hearing after receipt of a notice of intent to revoke from the commissioner within 60 days after receipt of the notice of intent to revoke, the licensee shall notify all of his clients within the State of such revocation and maintain in his records a copy of the notices. The licensee shall cease to perform any services for which he has been licensed under this chapter within 60 days of his receipt of the final notice of intent to revoke from the commissioner.

4. Extension. Under circumstances in which the commissioner determines that the public health, welfare or safety may be jeopardized by the termination of a licensee's services, the commissioner may, upon his own motion, or upon application by the licensee or any party affected by the termination, extend the time for the termination of the licensee's operations, subject to such reasonable, necessary and proper conditions or restrictions as he deems appropriate.

5. Consent order. After the commissioner has issued a notice of intent to revoke a license, the licensee may request that he be permitted to continue to operate subject to the terms of a written order of consent issued by the commissioner, requiring the licensee to correct the conditions set forth as

grounds for revocation in the notice of intent to revoke and imposing reasonable conditions and restrictions on the licensee in the conduct of his business. The commissioner may in his sole discretion grant or deny such a request and may stay or postpone any proceeding being conducted pursuant to subsection 2. Negotiations for such an order of consent may be requested at any time during revocation proceedings and stay of pending proceedings during such negotiations shall be within the sole discretion of the commissioner. If revocation proceedings are before a court and the commissioner and licensee have agreed upon the terms of a proposed consent order, the commissioner shall submit the proposed order to the court which may approve or disapprove the proposed order or require modification of the proposed consent order before approval.

6. Failure to comply. The commissioner shall enact reasonable rules and regulations for determination of whether the licensee has complied with a consent order issued pursuant to subsection 5. If the commissioner determines that the licensee has failed to comply, he may revoke the order and conduct proceedings for revocation of the license. If the consent order has been approved by a court, then the commissioner shall petition such court for vacation of the order. The court shall hold a hearing to determine if the order should be vacated. If the court vacates the consent order, the commissioner may conduct proceedings for revocation of the license.

§ 3776. Form of license

1. Form. The license, when issued, shall be in a form prescribed by the Commissioner of Public Safety and shall include:

- A. The name of the licensee;
- B. The business name under which the licensee is to operate;
- C. The address of the locations where the licensee is authorized to operate;
- D. The number and date of the license and its date of expiration.

§ 3777. Posting and surrender of license certificate

1. Posting. Within 72 hours after receipt of the license certificate, the licensee shall cause such license certificate to be posted and to be displayed at all times in a conspicuous place in the principal office of the licensee within the State and copies thereof to be displayed at all times in any other offices within the State where the licensee transacts business with his customers, so that all persons visiting such place or places may readily see the license. These license certificates or copies thereof shall be subject to inspection at all reasonable times by the Commissioner of Public Safety.

2. Unlawful posting; surrender. It shall be unlawful for any person holding such license certificate to knowingly and willfully post such license certificate or permit such license certificate to be posted upon premises other than those described in the license certificate or to knowingly and willfully alter such license certificate. Each license certificate shall be surrendered to

the commissioner within 72 hours after it has been revoked or after the licensee ceases to do business, subject to subsections 4 and 5 of section 3775. If the commissioner or a court of competent jurisdiction has pending before it any matter relating to the renewal, revocation or transfer of a license, the licensee shall not be required to surrender the license until the matter has been adjudicated and all appeals have been exhausted. When the licensee receives final notice that his license has been revoked, a copy of such notice shall be displayed and posted in close proximity to the license certificate until the licensee terminates his operations.

§ 3778. Change in status of licensee

The licensee shall notify the Commissioner of Public Safety within 30 days of any change in his qualifying agent, officers or directors or material change in the information previously furnished or required to be furnished to the commissioner or any occurrence which could reasonably be expected to affect the licensee's right to a license under this chapter.

§ 3779. Identification cards

1. Registration. Except as otherwise provided in this chapter, no person shall perform the functions and duties of a security guard in this State without first having been registered with the Commissioner of Public Safety and issued an identification card in the manner prescribed in this chapter.

2. Joint application. Individuals required to obtain an identification card under this section shall file a joint application for an identification card and, upon completion thereof, the licensee shall immediately forward the commissioner's portion of the form to the commissioner and retain the licensee's portion in his files. Licensees shall issue identification cards in the manner prescribed by subsection 6. The commissioner shall maintain a permanent file of persons who have been given identification cards.

3. License applicant. An applicant for a license shall have authority to and shall be required to issue to its security guards identification cards as provided in subsection 6 while the application of such person for license is pending. If the license application is finally denied, such business shall no longer have authority to issue identification cards and all identification cards issued by that firm shall become void and shall be returned by the security guards to the issuer.

4. Applicants. Every applicant for an identification card shall, prior to assignment, make and deliver to the licensee a notarized application in writing upon a form prescribed by the commissioner containing the following information:

- A. The name and address of the person who employs or will employ the applicant;
- B. The applicant's full name and current residence address;
- C. His date and place of birth;
- D. His social security number;
- E. His telephone number, if any;

- F. His complete addresses for the past 5 years;
 - G. A list of all employment or occupation engaged in during the last 5 years;
 - H. A list of all arrests and convictions in any jurisdiction and type of military discharge if other than honorable;
 - I. A general physical description;
 - J. All names used by the applicant other than the name by which he is currently known, with an explanation setting forth the place or places where each such name was used, the date or dates of each use and an explanation of why such names were used;
 - K. Three personal and 2 credit references;
 - L. Two classifiable sets of fingerprints recorded in such manner as may be prescribed by the Commissioner of Public Safety;
 - M. Two recent photographs of a type prescribed by the commissioner;
 - N. A statement advising whether or not the applicant has ever been denied a security guard's identification card or its equivalent in any jurisdiction;
 - O. A statement stating that the applicant will notify the licensee and the commissioner of any material changes of information set forth in the application within 10 days after the change; and
 - P. A statement stating that the applicant does not suffer from habitual drunkenness or from narcotic addiction or dependence and does not possess any physical disability which would prevent him from performing the duties of a security guard.
5. Eligibility. In order to be eligible to apply for an identification card, an individual must:
- A. Be at least 18 years of age;
 - B. Be a citizen of the United States or a resident alien;
 - C. Not have been convicted in any jurisdiction of any felony within the past 10 years or of illegally using or possessing a dangerous weapon, any conviction for which a full pardon or similar relief has not been granted;
 - D. Not have been declared, by any court of competent jurisdiction, incompetent by reason of mental disease or defect, which competency has not been declared restored;
 - E. Not suffer from habitual drunkenness or from narcotic addiction or dependence;
 - F. Not have been discharged from the Armed Services of the United States under other than honorable conditions; and
 - G. Be of good moral character.

6. Form. An identification card valid for one year shall be issued by a licensee to any of his security guards. The form for identification cards shall be prescribed by the Commissioner of Public Safety and shall include the following concerning the applicant:

- A. Full name and signature;
- B. A card number and date of issuance of the card;
- C. Date and place of birth;
- D. Name and address of the employer;
- E. The date of commencement of employment with the employer;
- F. A recent photograph of the identification cardholder; and
- G. A clear definition of a security guard's possible work related activities.

7. Inquiries. Before issuing an identification card, a licensee shall make reasonable and prudent inquiries to determine whether such individual meets the requirements of this chapter. If the licensee has reason to believe that the individual does not meet the requirements of this chapter, no identification card shall be issued by the licensee. The licensee may request that the commissioner conduct, without charge, an appropriate check of the individual's local, state and federal conviction record.

8. Identification card exhibited upon request. The identification card shall be carried by an individual required to be registered under this chapter whenever such individual is performing the duties of a security guard and shall be exhibited upon request.

9. Fee. The commissioner shall charge the licensee \$2 for each identification card form.

10. Restrictions. A currently valid identification card shall entitle the cardholder to perform the duties of security guard provided he continues in the employ of the employer listed on the card and continues the inservice training prescribed in section 3783.

§ 3780. Identification cards; denial, suspension or revocation; hearings; notices

1. Standards. Identification cards may be suspended or revoked by the Commissioner of Public Safety in the manner hereinafter set forth if the cardholder has:

- A. Failed to meet the qualifications of section 3779, subsection 5;
- B. Been found to have violated any of the provisions of this chapter or any rule or regulation pertaining to this chapter set forth by the Commissioner of Public Safety, if the commissioner determines that such violation reflects unfavorably upon the fitness of the person to function as a security guard;

C. Knowingly and willfully given any material false information to the licensee in connection with an application for an identification card or a renewal or reinstatement of an identification card hereunder or in the submission of any material fact to the licensee; or

D. Subsequent conviction in any jurisdiction of a felony and the commissioner finds such conviction to reflect unfavorably on the fitness of the person to function as a security guard.

2. Notice of suspension or revocation. Prior to denial, suspension or revocation of an identification card, the commissioner shall promptly notify the security guard and the employer with whom the cardholder is employed of the proposed action, setting forth in reasonable detail the ground or grounds for suspension or revocation. The security guard may request a hearing in the same manner and in accordance with the same procedures as that provided in section 3775, subsection 2.

3. Suspension or revocation. In the event that the commissioner suspends or revokes an identification card, the cardholder, upon receipt of the notice of denial, suspension or revocation, shall cease to perform the duties of a security guard.

4. Notice of final action. Both the cardholder and the employer shall be notified by the commissioner of final action to suspend or revoke an identification card.

§ 3781. Renewal of identification cards; notification of changes

1. Renewal. Identification cards issued by the licensee shall be valid for a period of one year. An identification card renewal notice must be filed by the licensee with the Commissioner of Public Safety not less than 30 days prior to the expiration of the card. The renewal notice shall be accompanied by a statement from the licensee that the person has satisfactorily completed the prescribed refresher training required by section 3783, and, that after reasonable and prudent inquiries, no information has come to his attention to warrant not renewing the identification card. A renewed identification card shall be valid for one year.

§ 3782. Activities after notice of suspension or revocation of identification card

1. Restriction. After a person has received a notice of suspension or revocation of his identification card, such individual shall not perform the duties of a security guard unless specifically authorized to do so by order of the Commissioner of Public Safety or by the Administrative Court Judge.

2. Disqualification. A person shall be automatically disqualified from performing the duties of a security guard and his identification card shall become invalid upon his failure to complete inservice training within 120 days after completion of preassignment training in accordance with section 3783. The person shall return the identification card to the licensee immediately upon the happening of that event.

3. Notice of disqualification. Upon disqualification, the commissioner shall notify the licensee and the cardholder or the licensee shall notify the commissioner and the cardholder, as the case may be, that the person's identification card is no longer valid. No licensee shall reissue to any individual an identification card within 30 days following the expiration of the card.

§ 3783. Private security officer training requirements

1. Preassignment training. Prior to being issued an identification card, all security guards shall receive at least 11 hours of preassignment training consisting of the following:

A. Orientation, including one hour in the purposes of security guards, prevention versus apprehension, public relations, deportment, appearance, maintenance, and safe-guarding of uniforms and equipment and in report writing;

B. Legal powers and limitations of security guards, including 3 hours of instruction in techniques of searching, preservation of evidence and in use of force;

C. Handling emergencies, including 2 hours in communications, types of alarm reporting equipment and procedures during fires, explosions, floods, riots, etc., and 2 hours of instruction regarding bomb threats;

D. General duties, including 2 hours in patrol and inspection, fire prevention and control, personnel control, identification system and safety; and

E. Firearms training, including 3 hours of preissue weapon instruction in legal limitations on use of weapons, handling of weapons and safety and maintenance.

2. Inservice training. All security guards shall be required to have an additional 32 hours of inservice training within 120 days after employment. It shall be the responsibility of the licensee to determine the content of and the manner in which inservice training shall be provided.

3. Refresher course. All security guards shall complete an annual 11-hour refresher course in the subjects listed in subsection 1 prior to applying for a renewal identification card under section 3781.

4. Self-instructional manual. The Department of Public Safety shall provide licensees, at the cost of printing, self-instructional training manuals suitable for the 11-hour preassigned training requirement and the additional 32-hour inservice training. Whether or not the licensee utilizes the manuals shall be optional.

5. Training records. The licensee shall maintain records describing the content and method of training used by him to satisfy the requirements of this section and shall present this information, along with a signed stipulation stating that the required training has been completed, to the Commissioner of Public Safety upon application for a license renewal.

§ 3784. Uniforms and equipment

1. **Handguns.** All handguns worn by a uniformed security guard shall be worn in a holster in an open and fully-exposed manner.

2. **Badges.** Except as otherwise provided in subsection 4, no individual while performing security guard services shall wear or display any badge, insignia, device, shield, patch or pattern which shall indicate or tend to indicate that he is a sworn peace officer, or which contains or includes the words "police" or the equivalent thereof, or is similar in wording to any law enforcement agency.

3. **Vehicles.** No person shall, while performing any security guard services, have or utilize any vehicle or equipment displaying the words "police," "law enforcement officer" or the equivalent thereof, or have any sign, shield, marking accessory or insignia that may indicate that such vehicle is a vehicle of a public law enforcement agency.

4. **Uniforms.** All military or police style uniforms shall, except for rain-wear or other foul weather clothing, have:

A. Permanently affixed over the left breast pocket, on the outermost garment and all caps worn by such persons, cloth badges the design of which shall be approved by the Commissioner of Public Safety; and

B. Permanently affixed over the right breast pocket on such outermost garment a cloth name tape utilizing a red background with white letters with the words "Security Guard" thereon.

§ 3785. Insurance requirements

All licensees shall file with the Commissioner of Public Safety a certificate of insurance evidencing comprehensive general liability coverage for death, bodily injury and personal injury, which coverage shall include false arrest, detention or imprisonment, malicious prosecution, libel, slander and defamation of character on violation of right of privacy, in the minimum amount of \$20,000 per person and \$60,000 per occurrence and property damage in the minimum amount of \$10,000 per occurrence. The contract with the insurer shall provide that the insurance shall not be modified or cancelled unless 30 days' prior notice shall be given to the commissioner by the insurer.

§ 3786. Unlawful acts

1. **Offenses.** It shall be unlawful for any person to knowingly commit any of the following:

A. Provide security guard services without possessing a valid license or registration;

B. Employ any individual to perform the duties of a security guard who is not the holder of a valid identification card;

C. Publish any advertisement, letterhead, circular, statement or phrase of any kind which suggests that the licensee is an official police agency or any other agency, instrumentality or division of this State, or any of its political

subdivisions, or of the Federal Government;

D. Issue any metal badge or shield;

E. Falsely represent that a person is or was in his employ as a licensee or as a security guard;

F. Knowingly make any false statement or material omission in any application filed with the commissioner; or

G. Falsely represent that he or any person is the holder of a valid license or identification card.

2. Security guard offenses. It shall be unlawful for any security guard to knowingly commit any of the following:

A. Fail to return immediately on demand, or within 7 days of termination of employment, any uniform cloth badge or other item of equipment issued to the security guard by an employer;

B. Make any statement which would reasonably cause another person to believe that he is a sworn peace officer or other official of this State or of any of its political subdivisions or agency of the Federal Government;

C. Fail to comply with the regulations issued by the Commissioner of Public Safety or with any other requirements of this chapter;

D. Divulge to anyone other than the licensee by which employed, or as such licensee shall direct or expect as may be required by law, any information acquired during such employment in respect to any of the work to which he shall have been assigned by such licensee;

E. Fail to return to the licensee an identification card immediately upon its invalidation or expiration; or

F. Use any metal badge or shield.

3. Class of crime. The violation of any of this section, unless the crime is otherwise specified, shall constitute a Class E crime. The commissioner shall also be authorized to suspend or revoke a license issued under this chapter to establish by regulation a reasonable fine schedule and to take any other action deemed appropriate under this chapter.

§ 3787. Prohibited activities in connection with strikes; labor disputes

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

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 outside the State, 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; or
- 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.

The violation of any of the provisions of this section shall constitute a Class E crime.

§ 3788. Judicial review

Any person aggrieved by any final action of the Commissioner of Public Safety under this chapter shall have the right to review by the Administrative Court.

§ 3789. Part-time and off-duty law enforcement officers

Any person currently employed as a state, county or local law enforcement officer who is insured or bonded as required by section 3785 and who engages in the activities regulated by this chapter on a part-time or off-duty basis need not be licensed or possess an identification card as required by sections 3765 and 3779.

§ 3790. Powers of arrest

Nothing in this chapter shall be construed to confer on any person licensed or registered under this chapter any power of arrest other than that currently enjoyed by citizens as defined in Title 17-A, section 15.

§ 3791. Severability clause

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this chapter which can be given effect without the invalid provision or application.

Sec. 3. 32 MRSA c. 55-A, § 3803 - § 3809, as enacted by P.L. 1971, c. 582, § 1, and as amended, is repealed and the following enacted in place thereof:

**CHAPTER 55-A
PRIVATE INVESTIGATORS**

§ 3803. Definitions

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

1. **Commissioner.** "Commissioner" means the Commissioner of Public Safety.

2. **Investigative assistant.** "Investigative assistant" means a person under the direct supervision of the licensee who is undergoing training in investigative activities and assisting the licensee in his work.

3. **Licensee.** "Licensee" means any person licensed under this chapter.

4. **Licensing authority.** "Licensing authority" means the Commissioner of Public Safety.

5. **Private investigator.** "Private investigator" means a person engaged in business as a private detective or investigator, including any person who, for hire, fee, reward or other consideration, engages in the business of making investigations for the purpose of obtaining information with reference to the following matter:

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

6. **Private investigator business.** "Private investigator business" means the business of private investigating.

§ 3804. Authority of the Commissioner of Public Safety relating to rules and regulations; petitions

1. **Rules and regulations.** The authority to promulgate rules and regulations which are reasonable, proper and necessary to carry out the functions of the Commissioner of Public Safety to enforce this chapter, to establish procedures for the preparation and processing of applications, license certificates, registration cards, renewals, appeals, hearings and rule-making proceedings, and to determine the qualifications of licensees and investigative assistants consistent with this chapter are hereby vested in the Commissioner of Public Safety.

2. Any interested person may petition the commissioner to enact, amend or repeal any rule or regulation within the scope of subsection 1. The commissioner shall prescribe by rule the form for such petitions and procedures for their submission, consideration and disposition.

3. Legislative review. Each rule and regulation promulgated by the Commissioner of Public Safety shall be reviewed by the Legislature at the earliest opportunity and approved or disapproved by joint resolution. Unless disapproved, the rule or regulation shall remain in effect.

§ 3805. Subpoenas; oaths; contempt powers

1. Subpoenas. In any investigation conducted under this chapter, the commissioner may issue subpoenas to compel the attendance of witnesses and the production of relevant books, accounts, records and documents. The officer conducting a hearing may administer oaths and may require testimony or evidence to be given under oath.

2. Court petition. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the commissioner, the commissioner may petition the District Court to compel the witness to obey the subpoena or to give the evidence. The court shall promptly issue process to the witness and shall hold a hearing on the petition as soon as possible. If the witness then refuses, without reasonable cause or legal grounds, to be examined or to give any evidence relevant to proper inquiry by the commissioner, the court may cite the witness for contempt.

§ 3806. Public notice of proposed rule making

1. Notice. The Commissioner of Public Safety shall, prior to the adoption of any rule or regulation or the amendment or repeal thereof, notify all licensees within the State and publish a notice of the proposed action in each daily newspaper published in the State; notify each city, town and plantation within the State and request that this notice be publicly posted; give publicity to the proposal in such other manner as it regards appropriate and shall afford interested persons an opportunity to submit in writing in a manner prescribed by the commissioner. This notice shall include:

A. A statement of the time, place and nature of the public rule-making proceedings;

B. Reference to the authority under which the rule making is proposed; and

C. Either the terms or substances of the proposed rule making or a description in reasonable detail of the subjects and issues involved.

The publication or serving of any notice required by this section shall be made not less than 30 days prior to the effective date of the proposed adoption, amendment or repeal of the rule or regulation, as the case may be, except as otherwise provided by the commissioner upon good cause found and published with the notice.

§ 3807. When license required; exceptions; penalties

No person, firm, corporation or other legal entity shall engage in, advertise nor hold himself out as being in, nor solicit private investigation business, notwithstanding the name or title used in describing such business, unless licensed for such purpose as provided in section 3809. No licensed private investigator or person licensed to engage in the private investigator business may employ or engage any other person to act as a private investigator or engage in the private investigator business unless that person so employed or engaged has qualified as provided in section 3812.

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 investigator or licensed private investigator 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, 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, 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 profits ;

3. Employees. A person employed as an investigator 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 3819 ;

6. Attorneys. As 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. **Polygraph expert.** An expert in the analysis of polygraph test results in the practice of his profession; and

12. **Prior law.** A person, firm, corporation or other legal entity possessing a valid license to engage in the private investigator 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 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 more than 11 months, or by both.

§ 3808. Application for license

An application for a license to engage in the private investigator business shall be filed with the Commissioner of Public Safety 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 20 years of age and of good moral character or shall have been regularly employed for at least 2 years as a full-time investigative assistant or for not less than one year as a detective doing investigating work, a member of an investigative service of the United States or a police officer of the State of Maine or any political subdivision thereof. The Commissioner of Public Safety shall process such applications and review the applicants to assure compliance with the provisions of this section.

§ 3809. Granting of licenses

The Commissioner of Public Safety may grant to an applicant complying with section 3808 a license to engage in the private investigator business. Such license shall be for 2 years, 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 commissioner may 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 commissioner and the information contained in such application shall be reviewed by the commissioner for continued compliance with section 3808. Application for renewal of license must be received by the commissioner not less than 30 days prior to the expiration date of the license. This limit is subject to the right of the commissioner to permit late filing upon good cause shown up to 2 months after the license expiration date. Prior to the revocation of a license, the licensee is entitled to a fair hearing equivalent to one required in section 3775, subsection 2.

§ 3810. Fees

The fee for an original license shall be \$100 and \$50 for a renewal. Initial license application fees shall not be refundable, but if a license renewal application is denied, the fee shall be refunded.

§ 3811. Insurance

All licensees shall file with the Commissioner of Public Safety a certificate of insurance evidencing comprehensive general liability coverage for death, bodily injury and personal injury, which coverage shall include false arrest, detention or imprisonment, malicious prosecution, libel, slander, defamation of character or violation of right of privacy, in the minimum amount of \$20,000 per person and \$60,000 per occurrence and property damage in the minimum amount of \$10,000 per occurrence. The contract with the insurer shall provide that the insurance shall not be modified or cancelled unless 30 days' prior notice shall be given to the Commissioner of Public Safety.

§ 3812. Employment of investigative assistants

1. Conditions of employment. A licensee may employ as many as 2 investigative assistants to aid him in the private investigative business upon the conditions that:

A. The licensee shall closely supervise and be fully responsible for all acts in the course of business by the investigative assistant;

B. The investigative assistant receives from the licensee at least 11 hours preemployment training in the following areas:

(1) General orientation of the purposes and legal obligations of a private investigator, 2 hours;

(2) The legal powers and limitations of a private investigator, including the right to privacy and techniques of searching, preservation of evidence and use of force, 6 hours;

(3) Weapons' instruction in the following topics, 3 hours;

(a) Handling of a weapon; and

(b) Safety and maintenance; and

C. The investigative assistants receive from the licensees 32 hours of in-service training within 120 days of employment.

2. **Responsibility for training.** It shall be the responsibility of the licensee to determine the manner and content of all training provided the assistant investigator.

3. **Self-instructional manual.** The Department of Public Safety shall make available to licensees, at the cost of printing, a self-instructional training manual suitable for the 8-hour pre-assignment training. Whether licensees purchase and use such a manual shall be optional.

4. **Refresher course.** Each year the investigative assistant shall receive an 11-hour refresher course on the matter prescribed in subsection 1, paragraph B.

5. **Training records.** The licensee shall maintain records describing the content and method of training used by him to satisfy the requirements of this section and shall present this information to the Commissioner of Public Safety upon application for license renewal.

§ 3813. Investigative assistants' identification cards

1. **Registration.** Except as otherwise provided in this chapter, no person shall perform the functions and duties of an investigative assistant in this State without first having been registered with the Commissioner of Public Safety and issued an identification card in the manner prescribed in this chapter.

2. **Joint application.** Individuals required to obtain an identification card under this section shall file a joint application for an identification card and upon completion thereof, the licensee shall immediately forward the Commissioner of Public Safety's portion of the form to the commissioner and retain the licensee's portion in his files. Licensees shall issue identification cards in the manner prescribed by subsection 6. The commissioner shall maintain a permanent file of persons who have been given identification cards.

3. **Training requirement.** An identification card shall not be awarded by the licensee before the investigative assistant has undergone the training mandated in section 3812, subsection 1, paragraph B.

4. **Requirements.** An applicant for a license shall not have authority to issue to his investigative assistants identification cards, as provided in subsection 6, while the application of such person for license is pending. Every applicant for an identification card shall, prior to assignment, make and deliver to the licensee a notarized application in writing upon a form prescribed by the Commissioner of Public Safety containing the following information:

- A. The name and address of the person employing the applicant;
- B. Applicant's full name and current residence address;
- C. Date and place of birth;
- D. Social security number;
- E. Telephone number, if any;

- F. Complete addresses for the past 5 years ;
 - G. List of all employment or occupation engaged in during the last 5 years ;
 - H. List of all arrests and convictions in any jurisdiction and type of military discharge if other than honorable ;
 - I. General physical description ;
 - J. All names used by the applicant other than the name by which he is currently known, with an explanation setting forth the place or places where each such name was used, the date or dates of each use and an explanation of why such names were used ;
 - K. Three personal and 2 credit references ;
 - L. Two classifiable sets of fingerprints recorded in such manner as may be prescribed by the Commissioner of Public Safety ;
 - M. Two recent photographs of a type prescribed by the commissioner ;
 - N. A statement whether the applicant has ever been denied an investigative assistant's identification card or its equivalent in any jurisdiction ;
 - O. A statement that the applicant will notify the licensee and the commissioner of any material changes of information set forth in the application within 10 days after the change ; and
 - P. A statement that the applicant does not suffer from habitual drunkenness or from narcotic addiction or dependence and does not possess any physical disability which would prevent him from performing the duties of an investigative assistant.
5. Qualifications for application. In order to be eligible to apply for an identification card, an individual shall :
- A. Be at least 18 years of age ;
 - B. Be a citizen of the United States or a resident alien ;
 - C. Not have been convicted in any jurisdiction of any felony within the past 10 years or illegally using or possessing a dangerous weapon for any of which a full pardon, or similar relief, has not been granted ;
 - D. Not have been declared, by any court of competent jurisdiction, incompetent by reason of mental disease or defect and not have been restored ;
 - E. Not suffer from habitual drunkenness or from narcotic addiction or dependence ;
 - F. Not have been discharged from the Armed Services of the United States under other than honorable conditions ; and
 - G. Be of good moral character.

6. Form of identification card. An identification card shall be valid for one year. The form for identification cards shall be prescribed by the Commissioner of Public Safety and shall include the following concerning the applicant:

- A. Full name and signature;
- B. A card number and date of issuance of the card;
- C. Date and place of birth;
- D. Name and address of the employer;
- E. The date of commencement of employment with the employer;
- F. A recent photograph of the identification cardholder; and
- G. A clear definition of investigative assistant's possible work-related activities.

7. Inquiries. Before issuing an identification card, a licensee shall make reasonable and prudent inquiries to determine whether such individual meets the requirements of this section. If the licensee has reason to believe that the individual does not meet the requirements of this section, no identification card shall be issued by the licensee. The licensee may request that the Commissioner of Public Safety conduct without charge an appropriate check of the individual's local, state and federal conviction record.

8. Exhibit upon request. The identification card shall be carried by an individual required to be registered under this chapter whenever such individual is performing the duties of an investigative assistant and shall be exhibited upon request.

9. Fee. The Commissioner of Public Safety shall charge the licensee \$2 for each identification card form.

10. Restriction. A currently valid identification card shall entitle the applicant to perform the duties of an investigative assistant provided the applicant continues in the employ of the employer listed on the card and continues the inservice training prescribed in section 3812.

§ 3814. Identification cards; denial; suspension or revocation; hearings; notices

1. Standards. Identification cards may be suspended or revoked by the Commissioner of Public Safety in the manner hereinafter set forth if the cardholder has:

- A. Failed to meet the qualifications of section 3813, subsection 5;
- B. Been found to have violated any of this chapter or any rule or regulation of the Commissioner of Public Safety if the commissioner determines that such violation reflects unfavorably upon the fitness of the applicant to function as an investigative assistant;

C. Knowingly and willfully given any material false information to the licensee in connection with an application for an identification card or a renewal or reinstatement of an identification card hereunder or in the submission of any material fact to the licensee; or

D. Subsequent conviction in any jurisdiction of a felony and the commissioner finds the conviction to reflect unfavorably on the fitness of the applicant to function as an investigative assistant.

2. Notice. Prior to suspension or revocation of an identification card, the commissioner shall promptly notify the investigative assistant and the employer with which the cardholder is employed of the proposed action, setting forth in reasonable detail the ground or grounds for suspension or revocation. The investigative assistant may request from the commissioner a fair hearing on the suspension or revocation, equivalent to the hearing required in section 3775.

3. Suspension or revocation. In the event that the commissioner suspends or revokes an identification card, the cardholder, upon receipt of the notice of suspension or revocation, shall cease to perform the duties of an investigative assistant.

4. Notice. Both the cardholder and the employer shall be notified by the commissioner of final action to suspend or revoke an identification card.

§ 3815. Renewal of identification card; notification of changes

1. Renewal. Identification cards issued by the licensee shall be valid for a period of one year. An identification card renewal notice must be filed by the licensee with the Commissioner of Public Safety not less than 30 days prior to the expiration of the card. The renewal notice shall be accompanied by a statement from the licensee that the investigative assistant has satisfactorily completed the prescribed refresher training required by section 3812 and that after reasonable and prudent inquiries, no information has come to his attention to warrant not renewing the identification card. A renewed identification card shall be valid for one year.

2. Notice. A licensee shall notify the commissioner within 10 days after the death or termination of employment of any of his employees who are investigative assistants.

3. Surrender. An investigative assistant who terminates employment shall surrender to the licensee within 5 business days his identification card.

§ 3816. Activities of investigative assistant after notice of suspension or revocation of identification card

1. Restriction. After an investigative assistant has received a notice of suspension or revocation of his identification cards, such individual shall not perform the duties of an investigative assistant unless specifically authorized to do so by order of the Commissioner of Public Safety or by the Administrative Court Judge.

2. Disqualification. An investigative assistant shall be automatically disqualified from performing as an investigative assistant and his identification

card shall become invalid upon his failure to complete inservice training within 120 days after completion of preassignment training in accordance with section 3812. The investigative assistant shall return the identification card to the licensee immediately upon the happening of that event.

3. Notice. Upon disqualification, the commissioner shall notify the licensee and the investigative assistant or the licensee shall notify the commissioner and the investigative assistant, as the case may be, that the investigative assistant's identification card shall no longer be valid. No licensee shall reissue to any individual an identification card within 30 days following the expiration date of the card.

§ 3817. Public police officers

Part-time or full-time public police officers are ineligible for a license under this chapter or for employment as an investigative assistant. For the purposes of this chapter, "public police officer" shall mean any individual who derives plenary or special law enforcement powers from and is an employee of the State or any of its political subdivisions, agencies or departments, or of any town, city or plantation.

§ 3818. Unlawful acts

1. Offenses. It shall be unlawful for any person to knowingly commit any of the following:

- A. Provide private investigator services without possessing a valid license or registration;
- B. Employ any individual to perform the duties of an investigative assistant who is not the holder of a valid identification card;
- C. Make any advertisement, letterhead, circular, statement or phrase of any kind which suggests that the licensee is an official police officer or agency or any other agency, instrumentality or division of this State or any of its political subdivisions or of the Federal Government;
- D. Issue any metal badge or shield;
- E. Falsely represent that a person is in his employ as a private investigator or an investigative assistant;
- F. Knowingly make any false statement or material omission in any application filed with the commissioner; or
- G. Falsely represent that the person is the holder of a valid license or identification card.

2. Security guard offenses. It is unlawful for any investigative assistant to knowingly commit any of the following:

- A. Fail to return immediately on demand, or within 7 days of termination of employment, any item of employment issued to the investigative assistant by an employer;

- B. Make any statement which would reasonably cause another person to believe that the investigative assistant is a sworn peace officer or other official of this State or of any of its political subdivisions or agency of the Federal Government;
 - C. Fail to comply with the regulations issued by the Commissioner of Public Safety or with any other requirements under this chapter;
 - D. Divulge to anyone other than the licensee by which employed, or as such licensee shall direct or expect as may be required by law, any information acquired during such employment in respect to any of the work to which he shall have been assigned by such licensee;
 - E. Fail to return to the licensee an identification card immediately upon its invalidation or expiration; or
 - F. Use any metal badge or shield.
3. Class of crime. The violation of any of the provisions of this section, unless the crime is otherwise specified, shall constitute a Class E crime. The commissioner also be authorized to suspend or revoke a license issued under this chapter, to establish by regulation a reasonable fine schedule and to take any other action under this chapter.

§ 3819. Prohibited activities in connection with strikes; labor disputes

- 1. Prohibitions. No licensee nor any of his employees shall:
 - 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 outside the State, 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; or

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.

The violation of any of the provisions of this section shall constitute a Class E crime.

§ 3820. Licensee identification cards

The Commissioner of Public Safety shall design and issue to each licensee a licensee identification card featuring a recent photograph of the licensee and his thumb print. The fee for this card shall be \$2.

§ 3821. Judicial review

Any person aggrieved by a final action of the Commissioner of Public Safety under this chapter shall have the right to review by the Administrative Court.

§ 3822. Powers of arrest

Nothing in this chapter shall be construed to confer on any person licensed or registered under this chapter any power of arrest other than currently enjoyed by citizens, as defined in Title 17-A, section 15.

§ 3823. Severability clause

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this chapter which can be given effect without the involved provision or application.

STATEMENT OF FACT

This bill reforms the regulation of the watch, guard and patrol industry and the private detective industry. Its central reforms are as follows.

1. It establishes a separate chapter 32 MRSA, chapter 54 for the regulation of security guards, this chapter provides that the license of any "contract security company" will see to it that each of his security guards has an identification card, is registered with the State and receives certain minimal pre-employment and inservice training. The method and specific content of this training is left to each licensee.

2. It revises Title 32, chapter 55-A, Private Detectives, creating a new category, "Investigative Assistants," who are trained by and operate under the direct supervision of the licensee. It mirrors the training and identification card requirements of the new chapter on contract security companies. This new employee category allows private investigators to have assistants able to aid them in the field.

3. It replaces the current bonding requirement with an insurance requirement providing more comprehensive protection.

4. It ensures security guard uniforms will not be mistaken for those of public police officers.

5. It defines a public citizen's right to arrest without a warrant.

6. It gives the Commissioner of Public Safety power to make rules and regulations, subject to the subsequent approval of the Legislature.