

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1312

H. P. 1030

House of Representatives, March 16, 1979

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

EDWIN H. PERT, Clerk

Presented by Mr. Silsby of Ellsworth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Create a Class of Security Guards with Limited Powers of Arrest.

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

Sec. 1. 32 MRSA § 3761, sub-§ 1, as enacted by PL 1977, c. 508, § 1, is amended to read:

1. Armored car service. "Armored car service" means that service provided by any person transporting or offering to transport, under armed security guard or security officer, 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.

Sec. 2. 32 MRSA § 3761, sub-§ 4, as enacted by PL 1977, c. 508, § 1, is amended to read:

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

Sec. 3. 32 MRSA § 3761, sub-§ 4-A is enacted to read:

4-A. Fresh pursuit. "Fresh pursuit" with respect to Class A, B or C crimes means the pursuit without unreasonable delay of a person who has committed a

Class A, B or C crime or who is reasonably suspected of having committed a Class A, B or C crime; with respect to Class D or E crimes and traffic infractions, "fresh pursuit" means instant pursuit of a person with intent to apprehend.

Sec. 4. 32 MRSA § 3761, sub-§ 9, as enacted by PL 1977, c. 508, § 1, is amended to read:

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

Sec. 5. 32 MRSA § 3761, sub-§ 10-A is enacted to read:

10-A. Security officer. "Security officer" means a licensed individual who is employed by the holder of a license issued pursuant to this chapter to principally perform all of the functions enumerated in subsection 10 and in section 3761-A.

Sec. 6. 32 MRSA § 3761, sub-§§ 11 and 12, as enacted by PL 1977, c. 508, § 1, are amended to read:

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

12. 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 as security guards or security officers.

Sec. 7. 32 MRSA §§ 3761-A and 3761-B are enacted to read:

§ 3761-A. Security officer; limited power of arrest

While on duty and within the bounds of the property which he is protecting, this individual is vested with the same powers and duties as sheriffs in their respective counties to investigate and arrest offenders of the crimes of unlawful intrusion or entry, theft, vandalism, abuse, arson, trespass and traffic infractions.

§ 3761-B. Arrest outside the protected property

No security officer in fresh pursuit of a person who travels outside the limits of the boundaries of the property that he is protecting shall have the power to arrest that person.

Sec. 8. 32 MRSA § 3762, sub-§ 1, first sentence, as enacted by PL 1977, c. 508, § 1, is amended to read:

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 security officers and to enforce the provisions of this chapter.

Sec. 9. 32 MRSA § 3765, sub-§ 1-A is enacted to read:

1-A. Performing functions of security officer without license unlawful. It shall be unlawful and punishable as provided in section 3779 for any person to perform the functions of a security officer without having first obtained a license from the Commissioner of Public Safety.

Sec. 10. 32 MRSA § 3765, sub-§ 2, as enacted by PL 1977, c. 508, § 1, is amended to read:

2. Time to apply for license. On the effective date of this chapter, every person required to have a license to engage in the business of a contract security company 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. No person may engage in security officer activities while his application is pending final determination.

Sec. 11. 32 MRSA § 3767, sub-§ 1-A is enacted to read:

1-A. Security officer qualifications. In addition to the qualifications enumerated in subsection 1 of this section, each applicant shall meet the following qualifications before he is licensed as a security officer. He shall:

A. Not be under indictment for or not have been convicted of any Class A, B, C or D crime, unless he has been pardoned:

B. Not have a history of mental instability; and

C. Meet one of the following educational and training requirements. He shall:

(1) Be a graduate of the Maine Criminal Justice Academy or a graduate of a similar federal, state or municipal law enforcement training program and have completed a course in constitutional law, Maine criminal law and firearms training by a certified police firearms instructor;

(2) Have completed a 2-year degree program in law enforcement and a course in firearms training by a certified police firearms instructor, and have been employed for a total of 3 years by a contract or proprietary security company as a security guard; or

(3) Be employed as a security guard and have satisfactorily completed the University of Maine's University Police Training Program or a similar training program which shall include self defense and firearms training.

Sec. 12. 32 MRSA § 3771, last sentence, as enacted by PL 1977, c. 508, § 1, is amended to read:

A licensee shall be permitted to continue to engage in security guard or security officer activities while his renewal application is pending.

Sec. 13. 32 MRSA § 3773, sub-§ 2, as enacted by PL 1977, c. 508, § 1, is amended to read:

2. Death of licensee. If the license to engage in the business of a contract security company 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 to 3771 to the extent such sections are applicable. **The license to engage in security officer activities shall expire upon the death of the licensee.**

Sec. 14. 32 MRSA § 3774, sub-§ 1, ¶ A, as enacted by PL 1977, c. 508, § 1, is amended to read:

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 or security officer activities;

Sec. 15. 32 MRSA § 3774, sub-§ 1, ¶ E is enacted to read:

E. Found to have acted outside the scope of his authority as a security officer as prescribed by section 3761-A.

Sec. 16. 32 MRSA § 3774, sub-§ 3, first sentence, as enacted by PL 1977, c. 508, § 1, is amended to read:

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 **of a license to engage in the business of a contract security company** shall notify all of his clients within the State of such revocation and maintain in his records a copy of the notices.

Sec. 17. 32 MRSA § 3775, sub-§ 2, as enacted by PL 1977, c. 508, § 1, is amended to read:

2. Posting. Within 72 hours after receipt of the license certificate to engage in the business of a contract security company, 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 shall 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. **A licensed security officer shall carry his license certificate on his person while he is on duty as a security officer.**

Sec. 17-A. 32 MRSA § 3775, sub-§ 3, first sentence, as enacted by PL 1977, c. 508, § 1, is amended to read:

It shall be unlawful for any person holding such a license certificate to **engage in the business of a contract security company** 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.

Sec. 17-B. 32 MRSA § 3775, sub-§ 3, as enacted by PL 1977, c. 508, § 1, is amended by adding after the first sentence the following new sentence to read:

It shall be unlawful for any person holding a license certificate to engage in security officer activities not to carry that license certificate on his person while he is on duty as a security officer.

Sec. 18. 32 MRSA § 3777, sub-§ 1, as enacted by PL 1977, c. 508, § 1, is repealed and the following enacted in its place:

1. Handguns. No security officer or security guard shall carry a handgun unless he has been trained by a certified police firearms instructor. Each security guard or security officer shall qualify annually to carry a handgun by fulfilling certain requirements established by the Commissioner of Public Safety. All handguns worn by a uniformed security guard or security officer shall be worn in a holster in an open and fully-exposed manner. No other permit to carry a handgun shall be necessary for a security officer.

Sec. 19. 32 MRSA § 3777, sub-§ 2, as enacted by PL 1977, c. 508, § 1, is amended by adding at the end the following sentence:

Each individual while performing security officer services shall wear a badge, insignia, device, shield, patch or pattern established or approved by the Commissioner of Public Safety which shall indicate that he has, within the boundaries of the property that he is protecting, the duties and powers of sheriffs in their respective counties.

Sec. 20. 32 MRSA § 3779, sub-§ 1, ¶¶ A and B, as enacted by PL 1977, c. 508, § 1, are amended to read:

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

B. Publish any advertisement, letterhead, circular, statement or phrase of any kind which suggests that the licensee is an official police agency or **employee of an official police agency** or any other agency or **employee of an agency**, instrumentality or division of this State, or any of its political subdivisions, or of the Federal Government;

Sec. 21. 32 MRSA § 3779, sub-§ 2, first sentence, as enacted by PL 1977, c. 508, § 1, is amended to read:

It shall be unlawful for any security guard **or security officer** to knowingly commit any of the following:

Sec. 22. 32 MRSA § 3779, sub-§ 2, ¶ A, as enacted by PL 1977, c. 508, § 1, is amended to read:

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

Sec. 23. 32 MRSA § 3780, sub-§ 1, ¶¶ G and H, as enacted by PL 1977, c. 508, § 1, are amended to read:

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 **or officers**, other than armed guards **or officers** 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 **or officers** upon the highways for persons involved in labor disputes;

STATEMENT OF FACT

The purpose of this bill is to create a new class of security guards called security officers who will have limited powers of arrest while protecting such places as military reservations, airports and ferry terminals.

In the past, arrest powers have been granted indiscriminately with no requirements for training, knowledge of the law or firearms training. An individual will have to meet certain educational and training requirements to be licensed as a security officer.

This bill:

1. Creates a class of security guards called "security officers." A security officer will have a limited power of arrest while on the property that he is protecting;
2. Describes educational and training requirements which an individual must meet to qualify as a security officer;
3. Describes the scope of a security officer's authority;
4. Requires that a security guard and security officer be trained by a certified police firearms instructor in order to carry a handgun; and
5. Provides that a security officer will wear a badge that indicates his status as a person capable of enforcing the law while on property that he is protecting.