

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 817

S.P. 290

In Senate, March 19, 1987

Reference to the Committee on Legal Affairs suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator KANY of Kennebec.

Cosponsored by Representative JOSEPH of Waterville,
Senator ERWIN of Oxford, Representative TRACY of Rome.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Amending the Laws Relating to Private
2 Security Guards.
3

4 Emergency preamble. Whereas, Acts of the Legis-
5 lature do not become effective until 90 days after
6 adjournment unless enacted as emergencies; and

7 Whereas, the Legislature anticipates labor
8 strikes in the coming summer months which will in-
9 volve the use of security guards and weapons; and

10 Whereas, legislation is urgently needed to better
11 qualify both in-state and out-of-state security
12 guards and deal with the problem of weapons used in
13 strike situations; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 32 MRSA §9403, sub-§1-A is enacted to
10 read:

11 1-A. Agent. "Agent" means a principal corporate
12 officer, partner, owner or majority shareholder of a
13 contract security company or a resident of the State
14 who manages or supervises the security guard business
15 of a resident or nonresident contract security compa-
16 ny within the State. This definition does not apply
17 in section 9412, subsection 2, wherein "agent" has
18 the common dictionary definition indicated by its
19 context.

20 Sec. 2. 32 MRSA §9403, sub-§§3-A to 3-I are en-
21 acted to read:

22 3-A. Drug abuser. "Drug abuser" has the same
23 meaning as set forth in Title 22, section 7103, sub-
24 section 9.

25 3-B. Drug addict. "Drug addict" has the same
26 meaning as set forth in Title 22, section 7103, sub-
27 section 11.

28 3-C. Drug dependent person. "Drug dependent per-
29 son" has the same meaning as set forth in Title 22,
30 section 7103, subsection 12.

31 3-D. Employee. "Employee" means a natural person
32 who performs one or more security guard functions un-
33 der a contract of hire between the natural person and
34 a contract security company or between the natural
35 person and a proprietary security organization. A
36 natural person who is an employee of a contract secu-
37 rity company may not simultaneously be an employee of
38 a proprietary security organization. This definition
39 does not apply in section 9412, subsection 4, wherein
40 "employee" has its common dictionary definition.

1 3-E. Firearm. "Firearm" has the same meaning as
2 set forth in Title 17-A, section 2, subsection 12-A.

3 3-F. Formal charging instrument. "Formal charging
4 instrument" means a complaint, indictment, information,
5 juvenile petition or other formal written accusation
6 against a person for some criminal or juvenile
7 offense.

8 3-G. Fugitive from justice. "Fugitive from justice"
9 has the same meaning as set forth in Title 15,
10 section 201, subsection 4.

11 3-H. Government. "Government" has the same meaning
12 as set forth in Title 17-A, section 2, subsection
13 13.

14 3-I. Law enforcement officer. "Law enforcement
15 officer" has the same meaning as set forth in Title
16 17-A, section 2, subsection 17.

17 Sec. 3. 32 MRSA §9403, sub-§8-A is enacted to
18 read:

19 8-A. Reckless or negligent conduct. "Reckless or
20 negligent conduct" means that the applicant, either
21 consciously disregarding or failing to be aware of a
22 risk that his conduct would cause such a result, engaged
23 in conduct which in fact created a substantial
24 risk of either death, serious bodily injury, bodily
25 injury or offensive physical contact to another human
26 being or the taking of, or damage or destruction to,
27 the property of another person or government, and the
28 applicant's disregard or failure to be aware of that
29 risk, when viewed in light of the nature and purpose
30 of the applicant's conduct and the circumstances
31 known to him, involved a deviation from the standard
32 of conduct that a reasonable and prudent person would
33 observe in the same situation.

34 Sec. 4. 32 MRSA §9403, sub-§10, as enacted by PL
35 1981, c. 113, §2, is amended to read:

36 10. Security system. "Security system" means
37 equipment designed to detect or signal an unauthor-
38 ized intrusion so that to which security guards are
39 expected to respond.

1 Sec. 5. 32 MRSA §9404, sub-§2, ¶A, as enacted by
2 PL 1981, c. 113, §2, is amended to read:

3 A. Any proprietary security organization or any
4 employee ~~or agent~~ thereof;

5 Sec. 6. 32 MRSA §9405, sub-§1, as enacted by PL
6 1981, c. 113, §2, is repealed.

7 Sec. 7. 32 MRSA §9405, sub-§1-A is enacted to
8 read:

9 1-A. Criteria for issuing license. The commis-
10 sioner shall issue, upon written application, a li-
11 cence to be a contract security company to any person
12 who has demonstrated good moral character and who
13 meets the following requirements:

14 A. Is 18 years of age or older;

15 B. Is a citizen or resident alien of the United
16 States;

17 C. Has not been dishonorably discharged from
18 military service;

19 D. Has not been convicted of a crime punishable
20 by one year or more imprisonment or, within the
21 past 5 years, of any crime enumerated in section
22 9412;

23 E. Has not been adjudicated of a juvenile of-
24 fense involving conduct which, if committed by an
25 adult, is punishable by one year or more impris-
26 onment or, within the past 5 years, of a juvenile
27 offense involving conduct which, if committed by
28 an adult, is a crime enumerated in section 9412;

29 F. Submits an application which contains the
30 following:

31 (1) Full name;

32 (2) Full current address and addresses for
33 the prior 5 years;

34 (3) The date and place of birth, height,
35 weight and color of eyes;

1 (4) A record of previous issuances of, re-
2 fusals to issue and renew, suspensions and
3 revocations of a license to be a contract
4 security company. The record of previous re-
5 fusals to issue alone does not constitute
6 cause for refusal and the record of previous
7 refusals to renew and revoke alone consti-
8 tutes cause for refusal only as provided in
9 section 9411;

10 (5) Answers the following questions:

11 (a) Is there a formal charging instru-
12 ment now pending against you in this or
13 any other jurisdiction for a crime
14 which is punishable by one year or more
15 imprisonment or for any other crime al-
16 leged to have been committed by you
17 with the use of a dangerous weapon, as
18 defined in Title 17-A, section 2, sub-
19 section 9, or of a firearm against an-
20 other person?

21 (b) Is there a formal charging instru-
22 ment now pending against you in this or
23 any other jurisdiction for a juvenile
24 offense which involves conduct which,
25 if committed by an adult, would be pun-
26 ishable by one year or more of impris-
27 onment or for any other juvenile of-
28 fense alleged to have been committed by
29 you with the use of a dangerous weapon,
30 as defined in Title 17-A, section 2,
31 subsection 9, or of a firearm against
32 another person?

33 (c) Have you ever been convicted of a
34 crime described in division (a) or ad-
35 judicated as having committed a juve-
36 nile offense as described in division
37 (b)?

38 (d) Is there a formal charging instru-
39 ment now pending against you in this
40 jurisdiction for any crime enumerated
41 in section 9412?

- 1 (e) Is there a formal charging instru-
2 ment now pending against you in this
3 jurisdiction for a juvenile offense
4 which involves conduct which, if com-
5 mitted by an adult, would be a crime
6 enumerated in section 9412?
- 7 (f) Have you within the past 5 years,
8 been convicted of a crime described in
9 division (d) or adjudicated as having
10 committed a juvenile offense as de-
11 scribed in division (e)?
- 12 (g) Are you a fugitive from justice?
- 13 (h) Are you a drug abuser, drug addict
14 or drug dependent person?
- 15 (i) Do you have a mental disorder
16 which causes you to be potentially dan-
17 gerous to yourself or others?
- 18 (j) Have you been adjudicated to be an
19 incapacitated person pursuant to Title
20 18-A, article V, Parts 3 and 4, and not
21 had that designation removed by an or-
22 der under Title 18-A, section 5-307,
23 subsection (b)?
- 24 (k) Have you been dishonorably dis-
25 charged from the military forces within
26 the past 5 years?
- 27 (l) Are you an illegal alien?
- 28 (6) A list of employees as of the date the
29 applicant affixes his signature to the ap-
30 plication who will perform security guard
31 functions within this State. This list shall
32 identify each employee by his full name,
33 full current address and addresses for the
34 prior 5 years and his date and place of
35 birth, height, weight and color of eyes; and
- 36 (7) A photograph of the applicant taken
37 within 6 months of the date the applicant
38 affixes his signature to the application;
39 and

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G. Does the following:

(1) At the request of the commissioner or his designee, takes whatever action is required of him by law to allow the commissioner or his designee to obtain from the Department of Mental Health and Mental Retardation, limited to records of patient committals to the Augusta Mental Health Institute, Bangor Mental Health Institute, the courts, law enforcement agencies and the military, information relevant to the following:

(a) The ascertainment of whether the information supplied on the application or any documents made a part of the application is true and correct;

(b) The ascertainment of whether each of the additional requirements of this section has been met; and

(c) Section 9411;

(2) If it becomes necessary to resolve any questions as to his identity, submits to having his fingerprints taken by the commissioner or his designee; and

(3) Submits the application fee in accordance with section 9407, subsection 1.

Sec. 8. 32 M RSA §9405, sub-§2, as enacted by PL 1981, c. 113, §2, is repealed.

Sec. 9. 32 M RSA §9405, sub-§§2-A, 2-B and 2-C are enacted to read:

2-A. Complete application; certification by applicant. The requirements set out in subsection 1-A constitute a complete application. By affixing his signature to the application, the applicant certifies the following:

A. That the statements he makes in the application and any documents he makes a part of the application are true and correct;

1 B. That he understands an affirmative answer to
2 any of the questions in subsection 1-A, paragraph
3 F, subparagraph (5), except the questions in di-
4 visions (a), (b), (d) and (e), which are cause
5 for refusal; and

6 C. That he understands any false statements made
7 in the application or any document made a part of
8 the application may result in prosecution as pro-
9 vided in section 9412, subsection 1, paragraph D.

10 2-B. Copy of laws furnished to applicant. A copy
11 of this chapter and the definitions from other chap-
12 ters which are used in this chapter shall be provided
13 to every applicant.

14 2-C. Good moral character. The commissioner, in
15 judging good moral character, shall make his determi-
16 nation in writing based solely upon information re-
17 corded by governmental entities within 5 years of re-
18 ceipt of the application, including, but not limited
19 to, the following matters:

20 A. Information of record relative to incidents
21 of abuse by the applicant of family or household
22 members, provided pursuant to Title 19, section
23 770, subsection 1;

24 B. Information of record relative to 3 or more
25 convictions of the applicant for crimes punish-
26 able by less than one year imprisonment or 3 or
27 more adjudications of the applicant for juvenile
28 offenses involving conduct which, if committed by
29 an adult, is punishable by less than one year im-
30 prisonment;

31 C. Information of record relative to 3 or more
32 adjudications of the applicant for civil viola-
33 tions;

34 D. Information of record relative to license
35 suspensions under section 9411; or

36 E. Information of record indicating that the ap-
37 plicant has engaged in reckless or negligent con-
38 duct.

1 Sec. 10. 32 MRSA §9405, sub-§4 is enacted to
2 read:

3 4. Access to confidential records. Notwithstand-
4 ing that certain records retained by governmental en-
5 tities are by law made confidential, the records per-
6 taining to patient committals to Augusta Mental
7 Health Institute and Bangor Mental Health Institute,
8 the records compiled pursuant to Title 19, section
9 770, subsection 1, juvenile and adult crime records
10 and military records which are necessary to the com-
11 missioner's determination of the applicant's good
12 moral character and compliance with the additional
13 requirements of this section and of section 9411,
14 shall be made available, at the request of the com-
15 missioner or his designee, for inspection by and dis-
16 semination to the commissioner or his designee.

17 Sec. 11. 32 MRSA §9409, sub-§1, ¶C is enacted to
18 read:

19 C. A proprietary security organization shall
20 give the commissioner a bond in the sum of
21 \$10,000 before its employees perform security
22 guard functions at the site of a labor dispute or
23 strike.

24 Sec. 12. 32 MRSA §9409, sub-§2, ¶¶B and C, as
25 enacted by PL 1981, c. 113, §2, are amended to read:

26 B. Executed by the licensee or proprietary secu-
27 urity organization as principal and by a surety
28 company authorized to do business as such in this
29 State as surety; and

30 C. Conditioned upon the honest conduct of the
31 licensee or proprietary security organization and
32 the right of any person, including the officer of
33 any aggrieved labor union or association, whether
34 or not incorporated, injured by the intentional,
35 knowing, reckless or negligent act of the licens-
36 ee to bring, in his own name, an action on the
37 bond.

38 Sec. 13. 32 MRSA §9410-A is enacted to read:

39 §9410-A. Security guard qualifications

1 1. Qualifications to be a security guard. No
2 natural person may be employed as a security guard by
3 either a contract security company or a proprietary
4 security organization unless the natural person meets
5 the following minimum requirements:

6 A. Is 18 years of age or older;

7 B. Is a citizen or resident alien of the United
8 States;

9 C. Has not been dishonorably discharged from
10 military service;

11 D. Has not been convicted of a crime punishable
12 by one year or more of imprisonment or, within
13 the past 5 years, any crime enumerated in section
14 9412;

15 E. Has not been adjudicated of a juvenile of-
16 fense involving conduct which, if committed by an
17 adult, is punishable by one year or more of im-
18 prisonment or, within the past 5 years, of a ju-
19 venile offense involving conduct which, if com-
20 mitted by an adult, is a crime enumerated in sec-
21 tion 9412;

22 F. Does not have a combination of 3 or more con-
23 victions for crimes punishable by less than one
24 year of imprisonment or adjudications for civil
25 violations within the past 5 years;

26 G. Is not a fugitive from justice;

27 H. Is not a drug abuser, drug addict or drug de-
28 pendent person;

29 I. Is not potentially dangerous to himself or
30 others as the result of a mental disorder;

31 J. Has not been adjudicated to be an incapaci-
32 tated person pursuant to Title 18-A, Article V,
33 Parts 3 and 4, or if so adjudicated, has had that
34 designation removed by an order under Title 18-A,
35 section 5-307, subsection (b); and

1 K. At the request of the commissioner or his
2 designee, takes whatever action is required of
3 him by law to allow the commissioner or his des-
4 ignee to obtain from the Department of Mental
5 Health and Mental Retardation, limited to records
6 of patient committals to the Augusta Mental
7 Health Institute, Bangor Mental Health Institute,
8 the courts, law enforcement agencies and the mil-
9 itary, information relevant to whether the natu-
10 ral person meets the requirements set forth in
11 paragraphs A to J.

12 2. Reporting new security guards to commission-
13 er. A licensee shall notify the commissioner of all
14 employees who perform security guard functions in the
15 State and who were not listed in the application for
16 a contract security company license 20 days before
17 the date that the employee begins to perform security
18 guard functions in the State. The notice shall be
19 made on forms prescribed by the commissioner. The
20 forms shall contain, but not be limited to, the fol-
21 lowing information:

22 A. The employee's full name;

23 B. The employee's full current address and ad-
24 resses for the prior 5 years; and

25 C. The employee's date and place of birth,
26 height, weight and color of eyes.

27 3. Access to confidential records. Notwithstand-
28 ing that certain records retained by governmental en-
29 tities are by law made confidential, the records per-
30 taining to patient committals to the Augusta Mental
31 Health Institute and Bangor Mental Health Institute,
32 the records compiled pursuant to Title 19, section
33 770, subsection 1, juvenile and adult crime records
34 and military records, which are necessary to the com-
35 missioner's determination of the employee's compli-
36 ance with the requirements of subsection 1, shall be
37 made available, at the request of the commissioner or
38 his designee, for inspection by and dissemination to
39 the commissioner or his designee.

40 Sec. 14. 32 MRSA §9411, as enacted by PL 1981,
41 c. 113, §2, is repealed.

1 Sec. 15. 32 MRSA §9411-A is enacted to read:

2 §9411-A. Refusal to renew; suspension; revocation;
3 reapplication

4 1. Refusal to renew; suspension; revocation. The
5 commissioner may refuse to renew a license, after a
6 hearing in accordance with the Maine Administrative
7 Procedure Act, Title 5, chapter 375, subchapter IV.
8 The Administrative Court may suspend or revoke the
9 license of any person licensed under this chapter.
10 The commissioner may refuse to renew a license and
11 the Administrative Court may suspend or revoke a li-
12 cence on any one or more of the following grounds.

13 A. The application or any documents made a part
14 of the application contained a material misstate-
15 ment.

16 B. The licensee becomes ineligible to hold a li-
17 cence under this chapter. Ineligibility is deter-
18 mined on the basis of the criteria contained in
19 section 9405.

20 C. The licensee has knowingly employed as a se-
21 curity guard any natural person who does not meet
22 the requirements of section 9410-A, subsection 1.

23 D. The licensee fails to comply with the report-
24 ing requirements of section 9410-A, subsection 2.

25 E. The licensee has failed to comply with any of
26 the rules promulgated by the commissioner under
27 this chapter.

28 2. Reapplication. No person, otherwise eligible,
29 whose license the commissioner has refused to renew
30 or who has had a license revoked, is eligible for re-
31 application until the expiration of 5 years from the
32 date of refusal to renew or revoke.

33 Sec. 16. 32 MRSA §9412, sub-§1, ¶¶C and D, as
34 enacted by PL 1981, c. 113, §2, are amended to read:

35 C. To falsely represent that a person is or was
36 in his employ as a licensee; or

1 D. To make any false statement or material omis-
2 sion in any application, or any documents made a
3 part of the application, filed with the commis-
4 sioner; or

5 Sec. 17. 32 MRSA §9412, sub-§1, ¶E is enacted to
6 read:

7 E. To make any false statement or material omis-
8 sion relative to the requirements of section
9 9410-A, subsection 1, in applying for a position
10 as a security guard with a contract security com-
11 pany or proprietary security organization.

12 Sec. 18. 32 MRSA §9412, sub-§2, as enacted by PL
13 1981, c. 113, §2, is amended to read:

14 2. Failure to return equipment; representation
15 as peace officer. It is a Class D crime for any secu-
16 rity guard knowingly to commit any of the following
17 acts:

18 A. To fail to return immediately on demand, or
19 within 7 days of termination of employment, any
20 uniform, badge, or other item of equipment issued
21 to him by an employer;

22 B. To make any representation which suggests, or
23 which would reasonably cause another person to
24 believe, that he is a sworn peace officer of this
25 State, any political subdivision thereof, or of
26 any other state or of the Federal Government;

27 C. To wear or display any badge, insignia, de-
28 vice, shield, patch or pattern which indicates or
29 suggests that he is a sworn peace officer, or
30 which contains or includes the word "police" or
31 the equivalent thereof, or is similar in wording
32 to any law enforcement agency; or

33 D. To possess or utilize any vehicle or equip-
34 ment displaying the words "police," "law enforce-
35 ment officer," or the equivalent thereof, or have
36 any sign, shield, marking, accessory or insignia
37 that may indicate that the vehicle is a vehicle
38 of a public law enforcement agency.

1 Paragraph A does not apply to any proprietary security
2 organization or any employee or agent thereof.

3 Sec. 19. 32 MRSA §9412, sub-§§5, 6 and 7 are en-
4 acted to read:

5 5. Dangerous weapons at labor disputes and
6 strikes. It is a Class D crime for any person, in-
7 cluding, but not limited to security guards and per-
8 sons involved in a labor dispute or strike, to be
9 armed with a dangerous weapon, as defined in Title
10 17-A, section 2, subsection 9, at the site of a labor
11 dispute or strike. A person holding a valid permit to
12 carry a concealed firearm is not exempt from this
13 subsection.

14 6. Proprietary security organization. It is a
15 Class D crime for a proprietary security organization
16 knowingly to employ as a security guard any natural
17 person who does not meet the requirements of section
18 9410-A, subsection 1.

19 7. Proprietary security organization and bond-
20 ing. A proprietary security organization that fails
21 to comply with section 9409, subsection 1, paragraph
22 C, commits a civil violation for which a forfeiture
23 of not more than \$2,000 may be adjudged.

24 Sec. 20. 32 MRSA §9418 is enacted to read:

25 §9418. Confidentiality of application and informa-
26 tion collected by the commissioner

27 Notwithstanding Title 1, sections 401 to 410, all
28 applications for a license to be a contract security
29 company and documents made a part of the application,
30 refusals and any information of record collected by
31 the commissioner during the process of ascertaining
32 whether an applicant is of good moral character and
33 meets the additional requirements of sections 9405
34 and 9411 and all information of record collected by
35 the commissioner during the process of ascertaining
36 whether a natural person meets the requirements of
37 section 9410-A, are confidential and may not be made
38 available for public inspection or copying. The ap-
39 plicant or natural person may waive this confiden-

1 tiality by written notice to the commissioner. All
2 proceedings relating to the issuance of a license to
3 be a contract security company are not public pro-
4 ceedings under Title 1, chapter 13, unless otherwise
5 requested by the applicant.

6 The commissioner or his designee shall make a
7 permanent record of each license to be a contract se-
8 curity company in a suitable book or file kept for
9 that purpose. The record shall include a copy of the
10 license and shall be available for public inspection.
11 Upon a specific request, the commissioner or his des-
12 ignee shall provide a list of names and current ad-
13 resses of security guards employed by licensed con-
14 tract security companies.

15 Emergency clause. In view of the emergency cited
16 in the preamble, this Act shall take effect when ap-
17 proved.

18 STATEMENT OF FACT

19 This bill makes a number of changes in the laws
20 governing private security guards. These changes are
21 meant to improve the quality of private security
22 guard service in the State. The changes are also
23 meant to conform the requirements for being a securi-
24 ty guard with the requirements for holding a permit
25 to carry a concealed firearm as enacted by Public Law
26 1985, chapter 478, section 2. This bill makes the
27 following changes to the private security guard law.

28 Sections 1, 2 and 3 enact definitions that set
29 forth the actual meanings of terms used throughout
30 the chapter. Some of these definitions originate in
31 other parts of the Maine Revised Statutes, Title 17-A
32 and Title 22. Since the applicant for a license to be
33 a contract security company is provided a copy of
34 this chapter and the definitions from other chapters,
35 this information will be available to him under this
36 bill, the Maine Revised Statutes, Title 32, section
37 9405, subsection 2-A.

38 The definitions in section 2 of "drug abuser,"
39 "drug addict," "drug dependent person," "firearm,"

1 "formal charging instrument," "fugitive from jus-
2 tice," and "law enforcement officer" are the same
3 definitions used in the laws governing concealed
4 firearm permits, Title 25, section 2002, sections 3
5 to 8 and 10, as enacted by Public Law 1985, chapter
6 478, section 2. The definition of "employee" clari-
7 fies that a contract security company and proprietary
8 security organization may not circumvent the licens-
9 ing requirements of this chapter by having the pro-
10 prietary security organization, which does not need a
11 license, hire the security guards employed by a con-
12 tract security company which does not have a license
13 to do business within the State.

14 The definition in section 3 of "reckless or neg-
15 ligent conduct" is modeled after the definition con-
16 tained in Title 25, section 2002, subsection 11. The
17 definition in section 3 is broader. First, it in-
18 cludes offensive physical contact as well as death,
19 serious bodily injury and bodily injury. All forms of
20 assault under Title 17-A, section 207 are included
21 within this definition. Second, it includes theft and
22 damage or destruction to the property of another per-
23 son or government as well as physical harm to a human
24 being.

25 Section 4 corrects the grammar in Title 32, sec-
26 tion 9403, subsection 10.

27 Section 5 eliminates agents of proprietary secu-
28 rity organizations from being exempt from this chap-
29 ter.

30 Sections 6 and 7 conform the licensing require-
31 ments for being a contract security company with the
32 requirements of Title 25, section 2003, as enacted by
33 Public Law 1985, chapter 478, section 2, for holding
34 a permit to carry a concealed firearm. Section 7 also
35 prohibits issuance of a license for 5 years to a per-
36 son who has been convicted under Title 32, section
37 9412 of violating this chapter or adjudicated of a
38 corresponding juvenile offense.

39 Section 7 lists license suspensions under section
40 9411 as a factor in the determination of whether
41 there is good moral character. Refusals to renew a
42 license and revocations of a license under section

1 9411 and criminal convictions and corresponding juvenile
2 offenses under section 9412 are not included in
3 the determination of good moral character because
4 these items render a person outright ineligible for a
5 license for a period of 5 years from the date of refusal,
6 revocation, criminal conviction or juvenile adjudication.
7 See section 9405, subsection 1-A, paragraphs D, E and F;
8 subsection 4 section 9405, subsection 2-C, paragraph B;
9 and section 9411, subsection 2.
10

11 Section 9 is modeled after Title 25, section
12 2003, subsection 5. Section 9 assures access by the
13 commissioner or his designee to information required
14 by the commissioner in determining whether to issue a
15 license.

16 Proprietary security organizations are not required
17 to be licensed or bonded. Section 11 requires a
18 proprietary security organization to give a bond of
19 the same value as that required of a resident licensed
20 contract security company if the security guards of a
21 proprietary security organization are to be present at
22 the site of a labor dispute or strike.

23 Section 12 conforms Title 32, section 9409, subsection
24 2 to the bonding requirement imposed on proprietary security
25 organizations by section 9.

26 Section 13 sets forth the minimum requirements
27 for security guards employed by either a contract security
28 company or proprietary security organization. These
29 requirements are similar to the qualifications for being
30 issued a license to be a contract security company.
31 Security guards are not subject to a determination of
32 whether they have good moral character as are applicants
33 for a license to be a contract security company, section
34 9405, subsection 2-A, paragraph B.
35

36 Section 13 also requires a licensed contract security
37 company to notify the commissioner of all new employees
38 who will perform security guard functions in the State.
39 The employee may begin work as a security guard 20 days
40 after the date that notification has been given to the
41 commissioner even if the commissioner or his designee has
42 not completed the back-

1 ground check on the security guard. If the background
2 check subsequently turns up information disqualifying
3 the security guard under section 9410-A, subsection
4 1, the licensee must terminate his employment. See
5 section 9411-A, subsection 1, paragraph C.

6 Section 13 also assures access by the commission-
7 er or his designee to information required by the
8 commissioner in determining whether a security guard
9 meets the qualifications of section 9410-A, subsec-
10 tion 1.

11 Section 15 sets forth the procedures and grounds
12 for refusing to renew, suspending and revoking a li-
13 cense to be a contract security company. Section 15
14 disqualifies a person from receiving a license for a
15 period of 5 years from the date of refusal to renew
16 or revoke.

17 Section 16 clarifies existing law that it is un-
18 lawful to make a false statement or material omission
19 in documents that are a part of the application, as
20 well as in the application itself.

21 Section 17 makes it unlawful to make false state-
22 ments or material omissions in applying for a posi-
23 tion as a security guard.

24 Section 18 conforms section 9412, subsection 2
25 with section 9404, subsection 2, paragraph A, which
26 eliminates agents of proprietary security organiza-
27 tions from being exempt from this chapter.

28 Section 19 promotes public safety by prohibiting
29 the possession of dangerous weapons at the site of a
30 labor dispute or strike. Under section 9417 federal,
31 state, county, municipal and other law enforcement
32 officers are exempt from this provision and also the
33 entire chapter.

34 Section 19 makes it a Class D crime for a propri-
35 etary security organization knowingly to employ an
36 unqualified security guard. A licensed contract secu-
37 rity company which knowingly employs an unqualified
38 security guard is liable, under section 9411, to have
39 its license not renewed, suspended or revoked.

1 Section 19 makes it a civil violation if a pro-
2 prietary security organization fails to comply with
3 the bonding requirement of section 9409, subsection
4 1, paragraph C.

5 Section 20 ensures the confidentiality of the ap-
6 plication and information collected by the commis-
7 sioner or his designee in determining whether an ap-
8 plicant meets licensing requirements or whether a
9 person is qualified to be a security guard. Section
10 20 also specifies the information that shall be
11 available to the public and the conditions of availa-
12 bility.

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