

MAINE STATE LEGISLATURE

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(Emergency)
(New Draft of S.P. 290, L.D. 817)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1555

S.P. 513

In Senate, May 13, 1987

Reported by Senator Kany of Kennebec for the Committee on Legal Affairs and printed under Joint Rule 2. Original Bill sponsored by Senator Kany of Kennebec. Cosponsored by: Representative Joseph of Waterville, Senator Erwin of Oxford, Representative Tracy of Rome.

JOY J. O'BRIEN, Secretary of the Senate

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-J are en-
21 acted to read:

22 3-A. Dangerous substance. "Dangerous substance"
23 means alcohol or any substance that is a schedule W,
24 X, Y or Z drug under Title 17-A, chapter 45.

25 3-B. Drug abuser. "Drug abuser" means a person
26 who uses any dangerous substance in violation of any
27 law of the State.

28 3-C. Drug addict. "Drug addict" means a
29 drug-dependent person who due to the use of a danger-
30 ous substance has developed such a tolerance to the
31 substance that abrupt termination of the use of the
32 substance would produce withdrawal symptoms.

33 3-D. Drug-dependent person. "Drug-dependent
34 person" means a person who in unable to function ef-
35 fectively and whose inability to do so results from
36 the use of a dangerous substance.

37 3-E. Employee. "Employee" means a natural per-
38 son who performs one or more security guard functions

1 under a contract of hire between the natural person
2 and a contract security company or between the natu-
3 ral person and a proprietary security organization. A
4 natural person who is an employee of a contract secu-
5 rity company may not simultaneously be an employee of
6 a proprietary security organization. This definition
7 does not apply in section 9412, subsection 4, wherein
8 "employee" has its common dictionary definition.

9 3-F. Firearm. "Firearm" has the same meaning as
10 set forth in Title 17-A, section 2, subsection 12-A.

11 3-G. Formal charging instrument. "Formal charg-
12 ing instrument" means a complaint, indictment, infor-
13 mation, juvenile petition or other formal written ac-
14 cusation against a person for some criminal or juve-
15 nile offense.

16 3-H. Fugitive from justice. "Fugitive from jus-
17 tice" has the same meaning as set forth in Title 15,
18 section 201, subsection 4.

19 3-I. Government. "Government" has the same
20 meaning as set forth in Title 17-A, section 2, sub-
21 section 13.

22 3-J. Law enforcement officer. "Law enforcement
23 officer" has the same meaning as set forth in Title
24 17-A, section 2, subsection 17.

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

27 8-A. Reckless or negligent conduct. "Reckless
28 or negligent conduct" means that the applicant, ei-
29 ther consciously disregarding or failing to be aware
30 of a risk that his conduct would cause such a result,
31 engaged in conduct which in fact created a substan-
32 tial risk of either death, serious bodily injury,
33 bodily injury or offensive physical contact to anothe-
34 er human being or the taking of, or damage or de-
35 struction to, the property of another person or gov-
36 ernment, and the applicant's disregard or failure to
37 be aware of that risk, when viewed in light of the
38 nature and purpose of the applicant's conduct and the
39 circumstances known to him, involved a deviation from
40 the standard of conduct that a reasonable and prudent
41 person would observe in the same situation.

1 Sec. 4. 32 MRSA §9403, sub-§9, ¶D, as enacted by
2 PL 1981, c. 113, §2, is repealed.

3 Sec. 5. 32 MRSA §9403, sub-§10, as enacted by PL
4 1981, c. 113, §2, is amended to read:

5 10. Security system. "Security system" means
6 equipment designed to detect or signal an unautho-
7 rized intrusion ~~so that~~ to which security guards are
8 expected to respond.

9 Sec. 6. 32 MRSA §9404, sub-§2, ¶A, as enacted by
10 PL 1981, c. 113, §2, is amended to read:

11 A. Any proprietary security organization or any
12 employee or agent thereof;

13 Sec. 7. 32 MRSA §9405, sub-§1, as enacted by PL
14 1981, c. 113, §2, is repealed.

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

17 1-A. Criteria for issuing license. The commis-
18 sioner shall issue, upon written application, a li-
19 cence to be a contract security company to any person
20 who has demonstrated good moral character and who
21 meets the following requirements:

22 A. Is 18 years of age or older;

23 B. Is a citizen or resident alien of the United
24 States;

25 C. Has not been dishonorably discharged from
26 military service;

27 D. Has not been convicted of a crime punishable
28 by one year or more imprisonment or, within the
29 past 5 years, of any crime enumerated in section
30 9412;

31 E. Has not been adjudicated to have committed a
32 juvenile offense involving conduct which, if com-
33 mitted by an adult, is punishable by one year or
34 more imprisonment or, within the past 5 years, a
35 juvenile offense involving conduct which, if com-

1 mitted by an adult, is a crime enumerated in sec-
2 tion 9412;

3 F. Submits an application which contains the
4 following, to be answered by the applicant:

5 (1) Full name;

6 (2) Full current address and addresses for
7 the prior 5 years;

8 (3) The date and place of birth, height,
9 weight and color of eyes;

10 (4) A record of previous issuances of, re-
11 fusals to issue and renew, suspensions and
12 revocations of a license to be a contract
13 security company. The record of previous re-
14 fusals to issue alone does not constitute
15 cause for refusal and the record of previous
16 refusals to renew and revocations alone con-
17 stitutes cause for refusal only as provided
18 in section 9411-A;

19 (5) The following questions.

20 (a) Is there a formal charging instru-
21 ment now pending against you in this or
22 any other jurisdiction for a crime
23 which is punishable by one year or more
24 imprisonment or for any other crime al-
25 leged to have been committed by you
26 with the use of a dangerous weapon, as
27 defined in Title 17-A, section 2, sub-
28 section 9, or of a firearm against an-
29 other person?

30 (b) Is there a formal charging instru-
31 ment now pending against you in this or
32 any other jurisdiction for a juvenile
33 offense which involves conduct which,
34 if committed by an adult, would be pun-
35 ishable by one year or more of impris-
36 onment or for any other juvenile of-
37 fense alleged to have been committed by
38 you with the use of a dangerous weapon,
39 as defined in Title 17-A, section 2,

1 subsection 9, or of a firearm against
2 another person?

3 (c) Have you ever been convicted of a
4 crime described in division (a) or ad-
5 judicated as having committed a juve-
6 venile offense as described in division
7 (b)?

8 (d) Is there a formal charging instru-
9 ment now pending against you in this
10 jurisdiction for any crime enumerated
11 in section 9412?

12 (e) Is there a formal charging instru-
13 ment now pending against you in this
14 jurisdiction for a juvenile offense
15 which involves conduct which, if com-
16 mitted by an adult, would be a crime
17 enumerated in section 9412?

18 (f) Have you within the past 5 years
19 been convicted of a crime described in
20 division (d) or adjudicated as having
21 committed a juvenile offense as de-
22 scribed in division (e)?

23 (g) Are you a fugitive from justice?

24 (h) Are you a drug abuser, drug addict
25 or drug-dependent person?

26 (i) Do you have a mental disorder
27 which causes you to be potentially dan-
28 gerous to yourself or others?

29 (j) Have you been adjudicated to be an
30 incapacitated person pursuant to Title
31 18-A, article V, Parts 3 and 4, and not
32 had that designation removed by an or-
33 der under Title 18-A, section 5-307,
34 subsection (b)?

35 (k) Have you been dishonorably dis-
36 charged from the military forces within
37 the past 5 years?

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(1) Are you an illegal alien;

(6) A list of employees as of the date the applicant signs the application who will perform security guard functions within the State. This list shall identify each employee by his full name, full current address and addresses for the prior 5 years and his date and place of birth, height, weight and color of eyes. For each employee on this list who will perform security guard functions at the site of a labor dispute or strike, the applicant shall have previously investigated the background of the employee to ensure that the employee meets all of the requirements to be a security guard as contained in section 9410-A, subsection 1. If the employee meets all of the requirements to be a security guard, the applicant shall also submit a statement, signed by the applicant, stating that the applicant has conducted this background investigation and that the employee meets the requirements contained in section 9410-A, subsection 1; and

(7) A photograph of the applicant taken within 6 months of the date the applicant affixes his signature to the application; and

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: Hospitals and mental institutions either within or outside of the State, limited to records of involuntary commitments; 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;

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

4 (c) Section 9411-A;

5 (2) If it becomes necessary to resolve any
6 questions as to his identity, submits to
7 having his fingerprints taken by the commis-
8 sioner or his designee; and

9 (3) Submits the application fee in accord-
10 ance with section 9407, subsection 1.

11 Sec. 9. 32 MRSA §9405, sub-§2, as enacted by PL
12 1981, c. 113, §2, is repealed.

13 Sec. 10. 32 MRSA §9405, sub-§§2-A, 2-B and 2-C
14 are enacted to read:

15 2-A. Complete application; certification by ap-
16 plicant. The requirements set out in subsection 1-A
17 constitute a complete application. By affixing his
18 signature to the application, the applicant certifies
19 the following:

20 A. That the statements he makes in the applica-
21 tion and any documents he makes a part of the ap-
22 plication are true and correct;

23 B. That he understands an affirmative answer to
24 any of the questions in subsection 1-A, paragraph
25 F, subparagraph (5), except the questions in di-
26 visions (a), (b), (d) and (e), is cause for re-
27 fusal; and

28 C. That he understands any false statements made
29 in the application or any document made a part of
30 the application may result in prosecution as pro-
31 vided in section 9412, subsection 1, paragraph D.

32 2-B. Copy of laws furnished to applicant. A copy
33 of this chapter and the definitions from other chap-
34 ters which are used in this chapter shall be provided
35 to every applicant.

1 2-C. Good moral character. The commissioner, in
2 judging good moral character, shall make his determi-
3 nation in writing based solely upon information re-
4 corded by governmental entities within 5 years of re-
5 ceipt of the application, including, but not limited
6 to, the following matters:

7 A. Information of record relative to incidents
8 of abuse by the applicant of family or household
9 members, provided pursuant to Title 19, section
10 770, subsection 1;

11 B. Information of record relative to 3 or more
12 convictions of the applicant for crimes punish-
13 able by less than one year imprisonment or 3 or
14 more adjudications of the applicant for juvenile
15 offenses involving conduct which, if committed by
16 an adult, is punishable by less than one year im-
17 prisonment;

18 C. Information of record relative to 3 or more
19 adjudications of the applicant for civil viola-
20 tions;

21 D. Information of record relative to license
22 suspensions under section 9411-A; or

23 E. Information of record indicating that the ap-
24 plicant has engaged in reckless or negligent con-
25 duct.

26 Sec. 11. 32 MRSA §9405, sub-§4 is enacted to
27 read:

28 4. Access to confidential records. Notwithstand-
29 ing that certain records retained by governmental en-
30 tities are by law made confidential, yet are neces-
31 sary to the commissioner's determination of the ap-
32 plicant's good moral character and compliance with
33 the additional requirements of this section and of
34 section 9411-A, the following records shall be made
35 available, at the request of the commissioner or his
36 designee, for inspection by and dissemination to the
37 commissioner or his designee:

38 A. The records pertaining to involuntary commit-
39 ments to Augusta Mental Health Institute and
40 Bangor Mental Health Institute;

1 B. The records compiled pursuant to Title 19,
2 section 770, subsection 1;

3 C. Juvenile and adult crime records; and

4 D. Military records.

5 Sec. 12. 32 MRSA §9410-A is enacted to read:

6 §9410-A. Security guard qualifications

7 1. Qualifications to be a security guard. No
8 natural person may be employed as a security guard by
9 a contract security company unless the natural person
10 meets the following minimum requirements:

11 A. Is 18 years of age or older;

12 B. Is a citizen or resident alien of the United
13 States;

14 C. Has not been dishonorably discharged from
15 military service within the last 5 years;

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

20 E. Has not been adjudicated to have committed a
21 juvenile offense involving conduct which, if com-
22 mitted by an adult, is punishable by one year or
23 more of imprisonment or, within the past 5 years,
24 a juvenile offense involving conduct which, if
25 committed by an adult, is a crime enumerated in
26 section 9412;

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

31 G. Is not a fugitive from justice;

32 H. Is not a drug abuser, drug addict or
33 drug-dependent person;

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

3 J. Has not been adjudicated to be an incapacitated
4 person pursuant to Title 18-A, article V,
5 Parts 3 and 4, or if so adjudicated, has had that
6 designation removed by an order under Title 18-A,
7 section 5-307, subsection (b); and

8 K. At the request of the contract security com-
9 pany, the commissioner or his designee, takes
10 whatever action is required of him by law to al-
11 low the contract security company, the commis-
12 sioner or his designee to obtain from: Hospitals
13 and mental institutions either within or outside
14 the State, limited to records of involuntary com-
15 mitments; the courts; law enforcement agencies;
16 and the military, information relevant to whether
17 the natural person meets the requirements set
18 forth in paragraphs A to J.

19 2. Reporting new security guards to commission-
20 er. A licensee shall notify the commissioner of all
21 employees who will perform security guard functions
22 in the State and who were not listed in the applica-
23 tion for a contract security company license before
24 the date that the employee begins to perform security
25 guard functions in the State. The notice shall be
26 made on forms prescribed by the commissioner. The
27 forms shall contain, but not be limited to, the fol-
28 lowing information:

29 A. The employee's full name;

30 B. The employee's full current address and ad-
31 dresses for the prior 5 years; and

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

34 3. Background investigation of security guards
35 at site of labor dispute or strike. For each employ-
36 ee reported to the commissioner under subsection 2
37 who will perform security guard functions at the site
38 of a labor dispute or strike, the licensee shall have
39 previously investigated the background of the employ-
40 ee to ensure that the employee meets all of the re-

1 quirements to be a security guard, as contained in
2 subsection 1. The licensee shall also sign a state-
3 ment accompanying the notice required by subsection
4 2, in which the licensee shall state that he has con-
5 ducted this investigation and that the employee meets
6 the requirements contained in subsection 1.

7 4. Background investigation by licensee of all
8 other security guards. For all other employees re-
9 ported to the commissioner under subsection 2, and
10 for each employee on the list required by section
11 9405, subsection 1-A, paragraph F, subparagraph (6),
12 for whom the licensee has not previously submitted a
13 statement that the employee meets the requirements of
14 subsection 1, the licensee shall investigate the
15 background of the employee to ensure that the employ-
16 ee meets all of the requirements to be a security
17 guard, as contained in subsection 1. Within 60 days
18 of the date that the employee begins to perform secu-
19 rity guard functions within the State, the licensee
20 shall complete this background investigation and sub-
21 mit to the commissioner a statement, signed by the
22 licensee, that the licensee has conducted the back-
23 ground investigation and that the employee meets the
24 requirements of subsection 1. This statement must be
25 submitted to the commissioner before an employee may
26 wear, carry or use a firearm in the performance of
27 security guard functions and before an employee may
28 perform security guard functions at the site of a la-
29 bor dispute or strike.

30 5. Access to confidential records. Notwithstand-
31 ing that certain records retained by governmental en-
32 tities are by law made confidential, yet are neces-
33 sary to the commissioner's determination of the ap-
34 plicant's good moral character and compliance with
35 the additional requirements of this section and of
36 section 9411-A, the following records shall be made
37 available, at the request of the commissioner or his
38 designee, for inspection by and dissemination to the
39 commissioner or his designee:

40 A. The records pertaining to involuntary commit-
41 ments to Augusta Mental Health Institute and
42 Bangor Mental Health Institute;

43 B. The records compiled pursuant to Title 19,
44 section 770, subsection 1;

1 C. Juvenile and adult crime records; and

2 D. Military records.

3 Sec. 13. 32 MRSA §9411, as enacted by PL 1981,
4 c. 113, §2, is repealed.

5 Sec. 14. 32 MRSA §9411-A is enacted to read:

6 §9411-A. Refusal to renew; suspension; revocation;
7 reapplication

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

17 A. The application, any documents made a part of
18 the application, any notice or any statement
19 filed with the commissioner contained a material
20 misstatement.

21 B. The licensee becomes ineligible to hold a li-
22 cence under this chapter. Ineligibility is deter-
23 mined on the basis of the criteria contained in
24 section 9405.

25 C. The licensee fails to comply with the re-
26 quirements of section 9405, subsection 1-A, para-
27 graph F, subparagraph (6).

28 D. The licensee has knowingly employed as a se-
29 curity guard, or has knowingly kept as an employ-
30 ee, any natural person who does not meet the re-
31 quirements of section 9410-A, subsection 1.

32 E. The licensee fails to comply with the re-
33 quirements of section 9410-A, subsection 2, 3 or
34 4.

35 F. The licensee fails to comply with any of the
36 rules promulgated by the commissioner under this
37 chapter.

1 G. The licensee has knowingly encouraged or al-
2 lowed any employee to violate section 9412, sub-
3 section 4, 5 or 6.

4 2. Reapplication. No person, otherwise eligible,
5 whose license the commissioner has refused to renew
6 or who has had a license revoked, is eligible for re-
7 application until the expiration of 5 years from the
8 date of refusal to renew or revocation.

9 Sec. 15. 32 MRSA §9412, sub-§1, ¶¶C and D, as
10 enacted by PL 1981, c. 113, §2, are amended to read:

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

13 D. To make any false statement or material omis-
14 sion in any application, any documents made a
15 part of the application, any notice or any
16 statement filed with the commissioner; or

17 Sec. 16. 32 MRSA §9412, sub-§1, ¶E is enacted to
18 read:

19 E. To make any false statement or material omis-
20 sion relative to the requirements of section
21 9410-A, subsection 1, in applying for a position
22 as a security guard with a contract security com-
23 pany.

24 Sec. 17. 32 MRSA §9412, sub-§2, as enacted by PL
25 1981, c. 113, §2, is amended to read:

26 2. Failure to return equipment; representation
27 as peace officer. It is a Class D crime for any secu-
28 rity guard knowingly to commit any of the following
29 acts:

30 A. To fail to return immediately on demand, or
31 within 7 days of termination of employment, any
32 uniform, badge, or other item of equipment issued
33 to him by an employer;

34 B. To make any representation which suggests, or
35 which would reasonably cause another person to
36 believe, that he is a sworn peace officer of this
37 State, any political subdivision thereof, or of
38 any other state or of the Federal Government;

1 C. To wear or display any badge, insignia, de-
2 vice, shield, patch or pattern which indicates or
3 suggests that he is a sworn peace officer, or
4 which contains or includes the word "police" or
5 the equivalent thereof, or is similar in wording
6 to any law enforcement agency; or

7 D. To possess or utilize any vehicle or equip-
8 ment displaying the words "police," "law enforce-
9 ment officer," or the equivalent thereof, or have
10 any sign, shield, marking, accessory or insignia
11 that may indicate that the vehicle is a vehicle
12 of a public law enforcement agency.

13 Paragraph A does not apply to any proprietary securi-
14 ty organization or any employee or agent thereof.

15 Sec. 18. 32 MRSA §9412, sub-§§5 and 6 are en-
16 acted to read:

17 5. Dangerous weapons at labor disputes and
18 strikes. It is a Class D crime for any person, in-
19 cluding, but not limited to, security guards and per-
20 sons involved in a labor dispute or strike, to be
21 armed with a dangerous weapon, as defined in Title
22 17-A, section 2, subsection 9, at the site of a labor
23 dispute or strike. A person holding a valid permit to
24 carry a concealed firearm is not exempt from this
25 subsection. A security guard is exempt from this
26 subsection to the extent that federal laws, rules or
27 regulations require the security guard to be armed
28 with a dangerous weapon at the site of a labor dis-
29 pute or strike.

30 6. Class E crimes. It is a Class E crime for
31 any person licensed under this chapter or for any em-
32 ployee of such a person, to knowingly commit any of
33 the following acts:

34 A. To perform or attempt to perform security
35 guard functions at the site of a labor dispute or
36 strike while not physically located on property
37 leased, owned, possessed or rented by the person
38 for whom the licensee is providing security
39 guards.

40 Sec. 19. 32 MRSA §9418 is enacted to read:

1 §9418. Confidentiality of application and informa-
2 tion collected by the commissioner

3 Notwithstanding Title 1, sections 401 to 410, all
4 applications for a license to be a contract security
5 company and any documents made a part of the applica-
6 tion, refusals and any information of record col-
7 lected by the commissioner during the process of as-
8 certaining whether an applicant is of good moral
9 character and meets the additional requirements of
10 sections 9405 and 9411-A, and all information of
11 record collected by the commissioner during the pro-
12 cess of ascertaining whether a natural person meets
13 the requirements of section 9410-A, are confidential
14 and may not be made available for public inspection
15 or copying. The applicant or natural person may waive
16 this confidentiality by written notice to the commis-
17 sioner. All proceedings relating to the issuance of
18 a license to be a contract security company are not
19 public proceedings under Title 1, chapter 13, unless
20 otherwise requested by the applicant.

21 The commissioner or his designee shall make a
22 permanent record of each license to be a contract se-
23 curity company in a suitable book or file kept for
24 that purpose. The record shall include a copy of the
25 license and shall be available for public inspection.
26 Upon a specific request, the commissioner or his des-
27 ignee shall provide a list of names and current ad-
28 resses of security guards employed by licensed con-
29 tract security companies.

30 Emergency clause. In view of the emergency cited
31 in the preamble, this Act shall take effect when ap-
32 proved.

1

STATEMENT OF FACT

2 This bill makes a number of changes in the laws
3 governing private security guards of the Maine Re-
4 vised Statutes, Title 32, chapter 93. These changes
5 are meant to improve the quality of the private secu-
6 rity guard service in this State. The changes are
7 also meant to conform the requirements for being a
8 security guard with the requirements for holding a
9 permit to carry a concealed firearm as enacted by
10 Public Law 1985, chapter 478, section 2. This bill
11 makes the following changes to the private security
12 guard law.

13 Sections 1, 2 and 3 enact definitions that set
14 forth the actual meanings of terms used throughout
15 the chapter. Some of these definitions originate in
16 other parts of Title 15 and Title 17-A. Under this
17 bill, the applicant for a license to be a contract
18 security company is provided a copy of Title 32,
19 chapter 93 and the definitions from other chapters.

20 The definitions of "dangerous substance," "drug
21 abuser," "drug addict" and "drug-dependent person"
22 are worded to ensure that persons with dangerous sub-
23 stance problems are not permitted to work as security
24 guards, while not eliminating those persons whose
25 medical conditions are controlled by the use of
26 drugs, such as diabetics.

27 The definitions in section 2 of "firearm," "for-
28 mal charging instrument," "fugitive from justice" and
29 "law enforcement officer" are the same definitions
30 used in the laws governing concealed firearm permits,
31 Title 25, section 2002, sections 3 to 8 and 10, as
32 enacted by Public Law 1985, chapter 478, section 2.
33 The definition of "employee" clarifies that a con-
34 tract security company and proprietary security orga-
35 nization may not circumvent the licensing require-
36 ments of this chapter by having the proprietary secu-
37 rity organization, which does not need a license,
38 hire the security guards employed by a contract secu-
39 rity company which does not have a license to do
40 business within the State.

1 The definition in section 3 of "reckless or neg-
2 ligent conduct" is modeled after the definition con-
3 tained in Title 25, section 2002, subsection 11. The
4 definition in section 3 is broader. First, it in-
5 cludes offensive physical contact as well as death,
6 serious bodily injury and bodily injury. All forms of
7 assault under Title 17-A, section 207 are included
8 within this definition. Second, it includes theft and
9 damage or destruction to the property of another per-
10 son or government as well as physical harm to a human
11 being.

12 Section 4 eliminates from the definition of secu-
13 rity guard, and thus from the requirements for secu-
14 rity guards, persons whose duty is to control or reg-
15 ulate traffic.

16 Section 5 corrects the grammar in Title 32, sec-
17 tion 9403, subsection 10.

18 Section 6 eliminates agents of proprietary secu-
19 rity organizations from being exempt from this chap-
20 ter.

21 Sections 7 and 8 conform the licensing require-
22 ments for being a contract security company with the
23 requirements of Title 25, section 2003, as enacted by
24 Public Law 1985, chapter 478, section 2, for holding
25 a permit to carry a concealed firearm. Section 8 also
26 prohibits issuance of a license for 5 years to a per-
27 son who has been convicted under Title 32, section
28 9412 of violating this chapter or adjudicated of a
29 corresponding juvenile offense.

30 Section 8 lists license suspensions under section
31 9411-A as a factor in the determination of whether
32 there is good moral character. Refusals to renew a
33 license and revocations of a license under section
34 9411-A and criminal convictions and corresponding ju-
35 venile offenses under section 9412 are not included
36 in the determination of good moral character because
37 these items render a person ineligible for a license
38 for a period of 5 years from the date of refusal,
39 revocation, criminal conviction or juvenile adjudica-
40 tion. (See section 9405, subsection 1-A, paragraphs
41 D, E and F; section 9405, subsection 2-C; and section
42 9411-A, subsection 2.)

1 Section 8 requires the contract security company
2 applying for a license to submit to the Commissioner
3 of Public Safety a list of the names and pertinent
4 information concerning all employees who will perform
5 security guard functions within the State. If the
6 employee is to be used in a labor dispute or strike
7 situation, the employer must have previously com-
8 pleted the background investigation to ensure that
9 the employee meets all the requirements for serving
10 as a security guard. If the employee does meet the
11 requirements, the employer shall submit a signed
12 statement to that effect.

13 Sections 8, 11 and 12 require the contract secu-
14 rity company and the employee to make available
15 records concerning involuntary commitments whether
16 from hospitals or mental institutions inside or out-
17 side the State.

18 Section 10, Title 32, section 9405, subsection
19 2-C is modeled after Title 25, section 2003, subsec-
20 tion 4.

21 Section 11 ensures access by the commissioner or
22 his designee to information required by the commis-
23 sioner in determining whether to issue a license.

24 Section 12 sets forth the minimum requirements
25 for security guards employed by a contract security
26 company. These requirements are similar to the quali-
27 fications for being issued a license to be a contract
28 security company. Security guards are not subject to
29 a determination of whether they have good moral char-
30 acter as are applicants for a license to be a con-
31 tract security company, section 9405, subsection 2-C.

32 Section 12 also requires a licensed contract secu-
33 rity company to notify the commissioner of all new
34 employees who will perform security guard functions
35 in the State. The employee may begin work as a secu-
36 rity guard as soon as the licensee has notified the
37 Commissioner of Public Safety as required, as long as
38 the employee will not be working at the site of a la-
39 bor dispute or strike. The licensee must have com-
40 pleted the background investigation and submitted the
41 statement that the employee meets the requirements
42 within 60 days of the employee's first day of work.

1 An employee must be investigated and certified before
2 he may carry a dangerous weapon or work at the site
3 of a labor dispute or strike.

4 Section 12 also ensures access by the contract
5 security company, the commissioner or his designee to
6 information required by the commissioner in determin-
7 ing whether a security guard meets the qualifications
8 of section 9410-A, subsection 1.

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

15 Section 14 also provides that a licensed contract
16 security company which knowingly employs an unquali-
17 fied security guard is liable, under section 9411-A,
18 to have its license suspended, revoked or not re-
19 newed.

20 Section 15 clarifies existing law that it is un-
21 lawful to make a false statement or material omission
22 in documents that are a part of the application, as
23 well as in the application itself. Section 15 also
24 extends this prohibition to any statement or notice
25 filed with the commissioner.

26 Section 16 makes it unlawful to make false state-
27 ments or material omissions in applying for a posi-
28 tion as a security guard.

29 Section 17 conforms section 9412, subsection 2
30 with section 9404, subsection 2, paragraph A, which
31 eliminates agents of proprietary security organiza-
32 tions from being exempt from this chapter.

33 Section 18 promotes public safety by prohibiting
34 the possession of dangerous weapons at the site of a
35 labor dispute or strike. Security guards are exempt
36 to the extent that the federal law requires a securi-
37 ty guard to be armed with a dangerous weapon at the
38 site of a labor dispute or strike. In addition, un-
39 der section 9417, federal, state, county, municipal
40 and other law enforcement officers are exempt from
41 this provision and also the entire chapter.

1 Section 18 makes it a Class E crime for a licens-
2 ee or employee of a licensee to perform security
3 guard functions at the site of a labor dispute or
4 strike while not actually located on property leased,
5 owned, possessed or rented by the person for whom the
6 licensee is providing security guards.

7 Section 18 also means that it is not a crime for
8 a licensee or its employees to perform security guard
9 functions on property not leased, owned, possessed or
10 rented by the person for whom the licensee is provid-
11 ing security guards when such property is not the
12 site of a labor dispute or strike.

13 Subsection 6 of section 18 does not apply to pro-
14 prietary security organizations whose employees may
15 perform security guard functions both on and off
16 property leased, owned, possessed or rented by the
17 organization, regardless of whether the property is
18 the site of a labor dispute or strike.

19 Section 19 ensures the confidentiality of the ap-
20 plication and information collected by the commis-
21 sioner or his designee in determining whether an ap-
22 plicant meets licensing requirements or whether a
23 person is qualified to be a security guard. Section
24 19 also specifies the information that shall be
25 available to the public and the conditions of availa-
26 bility.

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