

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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Legislative Document

No. 1658

S.P. 599

In Senate, January 11, 1994

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### An Act to Amend the Private Security Guards Act.

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Submitted by the Department of Public Safety pursuant to Joint Rule 24.  
Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HALL of Piscataquis.  
Cosponsored by Representatives: BOWERS of Washington, CLUKEY of Houlton,  
ROBICHAUD of Caribou, STEVENS of Sabattus.

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

2  
4 Sec. 1. 32 MRSA §9402, as enacted by PL 1981, c. 113, §2, is amended to read:

6 **§9402. Purpose**

8 It is the purpose of this chapter to regulate any person  
10 acting as a security guard or engaging in the business of providing a private security guard or private security guards.

12 Sec. 2. 32 MRSA §9403, sub-§1, as enacted by PL 1981, c. 113, §2, is repealed.

14 Sec. 3. 32 MRSA §9403, sub-§9, ¶A, as enacted by PL 1981, c. 113, §2, is repealed and the following enacted in its place:

18 A. Prevention of intrusion, entry, theft, criminal mischief, abuse, fire or trespass on public or private property;

22 Sec. 4. 32 MRSA §9403, sub-§9, ¶¶C, E and F, as enacted by PL 1981, c. 113, §2, are repealed.

24 Sec. 5. 32 MRSA §9403, sub-§9, ¶¶G to J are enacted to read:

26 G. Control, regulation or direction of the flow or movements of the public, whether by vehicle or otherwise, to ensure the protection of property other than for highway maintenance or construction;

32 H. Protection of a person from bodily injury;

34 I. Protection of tangible and intangible property and proprietary information; or

36 J. Providing secured transportation and protection from one place to another.

40 Sec. 6. 32 MRSA §9403, sub-§11, as enacted by PL 1981, c. 113, §2, is repealed.

42 Sec. 7. 32 MRSA §9404, as amended by PL 1987, c. 170, §6, is further amended to read:

46 **§9404. Contract security company license requirement; exceptions**

48 1. License required. No A person may not act as a contract security guard company without first obtaining ~~from~~ the  
50 ~~commissioner-a-license-to-be~~ a contract security company license.

2           **2. Exceptions.** This section does not apply to the  
4 following:

6           A. Any proprietary security organization ~~or any employee~~  
thereof;

8           B. Any person ~~employed by a person~~ possessing a valid  
10 license to be a contract security company; or

12           C. Any person possessing a valid contract security company  
14 license granted under any prior existing provision of law of  
this State, provided that upon expiration of that license  
the person shall be governed by this section.

16           **Sec. 8. 32 MRSA §9405, sub-§1-A, ¶F,** as enacted by PL 1987, c.  
18 170, §8, is amended to read:

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

22                 (1) Full name;

24                 (2) Full current address and addresses for the prior 5  
26 years;

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

30                 (4) A record of previous issuances of, refusals to  
32 issue and renew, suspensions and revocations of a  
license to be a contract security company. The record  
34 of previous refusals to issue alone does not constitute  
cause for refusal and the record of previous refusals  
36 to renew and revocations alone constitutes cause for  
refusal only as provided in section 9411-A; and

38                 (5) The following questions.

40                     (a) Is there a formal charging instrument now  
42 pending against you in this or any other  
jurisdiction for a crime which is punishable by  
44 one year or more imprisonment or for any other  
crime alleged to have been committed by you with  
46 the use of a dangerous weapon, as defined in Title  
17-A, section 2, subsection 9, or of a firearm  
48 against another person?

50                     (b) Is there a formal charging instrument now  
pending against you in this or any other

- 2 jurisdiction for a juvenile offense which involves  
4 conduct which, if committed by an adult, would be  
6 punishable by one year or more of imprisonment or  
8 for any other juvenile offense alleged to have  
been committed by you with the use of a dangerous  
weapon, as defined in Title 17-A, section 2,  
subsection 9, or of a firearm against another  
person?
- 10 (c) Have you ever been convicted of a crime  
12 described in division (a) or adjudicated as having  
14 committed a juvenile offense as described in  
division (b)?
- 16 (d) Is there a formal charging instrument now  
18 pending against you in this jurisdiction for any  
crime enumerated in section 9412?
- 20 (e) Is there a formal charging instrument now  
22 pending against you in this jurisdiction for a  
24 juvenile offense which involves conduct which, if  
committed by an adult, would be a crime enumerated  
in section 9412?
- 26 (f) Have you within the past 5 years been  
28 convicted of a crime described in division (d) or  
adjudicated as having committed a juvenile offense  
as described in division (e)?
- 30 (g) Are you a fugitive from justice?
- 32 (h) Are you a drug abuser, drug addict or  
34 drug-dependent person?
- 36 (i) Do you have a mental disorder which causes  
38 you to be potentially dangerous to yourself or  
others?
- 40 (j) Have you been adjudicated to be an  
42 incapacitated person pursuant to Title 18-A,  
44 article V, Parts 3 and 4, and not had that  
designation removed by an order under Title 18-A,  
section 5-307, subsection (b)?
- 46 (k) Have you been dishonorably discharged from  
the military forces within the past 5 years?
- 48 (l) Are you an illegal alien?; and

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

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

24  
25 **Sec. 9. 32 MRSA §9405, sub-§2-C, ¶¶D and E, as enacted by PL**  
26 **1987, c. 170, §10, are amended to read:**

27 **D. Information of record relative to license suspensions**  
28 **under section 9411-A; or**

29 **E. Information of record indicating that the applicant has**  
30 **engaged in reckless or negligent conduct; or**

31 **Sec. 10. 32 MRSA §9405, sub-§2-C, ¶F is enacted to read:**

32 **F. Notwithstanding paragraph B, information of record**  
33 **relative to one or more convictions or adjudications of the**  
34 **applicant for crimes involving a false statement, assault or**  
35 **theft.**

36  
37 **Sec. 11. 32 MRSA §9406, as enacted by PL 1981, c. 113, §2, is**  
38 **repealed.**

39 **Sec. 12. 32 MRSA §9407, as amended by PL 1989, c. 502, Pt. A,**  
40 **§114, is further amended to read:**

41 **§9407. Application for original contract security company license**

42  
43 **1. Application; fee. Applications for original contract**  
44 **security company licenses shall must be made to the commissioner**  
45

2 on forms prescribed by him the commissioner with respect to the  
3 requirements of section 9405. The fee for a license application  
4 is \$400, of which \$100 must be submitted with the application and  
5 \$300 must be submitted upon issuance of the license. If the  
6 previously issued license has expired and has not been renewed  
7 within a period of 60 days, the application shall must be  
8 considered the original application and the same fees and all  
requirements of an original application shall apply.

10 2. **Who must subscribe and swear to the application.** Each  
11 application shall be subscribed and sworn to:

12 A. If the applicant is a partnership, by each partner;

14 B. If the applicant is a corporation, by at least one  
15 principal corporate officer and, if different, by the agent  
16 of the corporation meeting the qualifications of section  
17 9405, subsection 1-A; or

18 C. If the applicant is other than a partnership or  
19 corporation, by the natural person making the application.

20  
21 Sec. 13. 32 MRSA §9408, as amended by PL 1983, c. 221, §4, is  
22 further amended to read:

23 **§9408. Renewal of contract security company license**

24 Each contract security company license shall must be issued  
25 for a term of one year and is, unless revoked or suspended,  
26 renewable annually. The fee for a license renewal is \$200, \$100  
27 of which is refundable upon denial of renewal. If a license  
28 renewal is issued before the expiration date or within 60 days of  
29 the expiration date of the license being renewed, the license  
30 renewal is valid for one year from the expiration date of the  
31 license being renewed.

32  
33 Sec. 14. 32 MRSA §9409, as enacted by PL 1981, c. 113, §2, is  
34 amended to read:

35 **§9409. Bonding or insurance requirement for contract security  
36 company**

37 1. **Requirement.** The requirements for bonding are as follows.

38 A. A person licensed under ~~this chapter~~ as a contract  
39 security company shall give to the commissioner a bond in  
40 the sum of \$10,000 \$25,000 if he the person is a resident,  
41 and in the sum of \$50,000 \$100,000 if he the person is not a  
42 resident, of the State.

2 B. For the purposes of this section, corporation is a  
resident if it is incorporated under the laws of this State.  
4 Any other person is a resident if the natural person who  
qualifies for the license resides in this State.

6 2. Form of bond. Each bond shall be:

8 A. In a form prescribed by the commissioner;

10 B. Executed by the licensee as principal and by a surety  
company authorized to do business as such in this State as  
12 surety; and

14 C. Conditioned upon the honest conduct of the licensee and  
the right of any person, including the officer of any  
16 aggrieved labor union or association, whether or not  
incorporated, injured by the intentional, knowing, reckless  
18 or negligent act of the licensee to bring, in his own name,  
an action on the bond.

20 3. Exception. In lieu of the bond required by subsection  
22 1, a contract security company may provide proof of general  
liability insurance, if the proof of insurance is:

24 A. In a form prescribed by the commissioner; and

26 B. Obtained by the licensee as the insured.

28 Sec. 15. 32 MRSA §9410, sub-§2, as enacted by PL 1981, c. 113,  
30 §2, is amended to read:

32 2. Death of contract security company licensee. If the a  
contract security company license is held by an owner other than  
34 a corporation and the owner dies, becomes disabled or otherwise  
ceases to engage in the business, the successor, heir, devisee or  
36 personal representative of the owner may, within 60 days of the  
death, disablement or other termination of operation by the  
38 original licensee, apply for a license on a form prescribed by  
the commissioner. The transferee shall be subject to this chapter.

40 Sec. 16. 32 MRSA §9410-A, as enacted by PL 1987, c. 170, §12,  
42 is repealed.

44 Sec. 17. 32 MRSA §§9410-B and 9410-C are enacted to read:

46 §9410-B. Security guard employer requirements

48 1. Prohibition. A proprietary security organization or a  
contract security company may not employ a person as a security  
50 guard unless the person is licensed according to this chapter.



2 The employer organization or company shall assist an applicant  
3 for the position of security guard to obtain a license when  
4 necessary.

5 2. Change of employment status. A proprietary security  
6 organization or a contract security company shall notify the  
7 commissioner within 30 days of any change in employment status of  
8 a security guard employed by the organization or company,  
9 including an appointment or termination.

10 **§9410-C. Security guard license**

11 1. Qualifications to be a security guard. A person may not  
12 be employed or act as a security guard unless the person meets  
13 the following minimum requirements:

14 A. Is 18 years of age or older;

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

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

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

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

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

30 G. Does not have one or more convictions or adjudications  
31 for crimes involving a false statement, assault or theft;

32 H. Is not a fugitive from justice;

33 I. Is not a drug abuser, drug addict or drug-dependent  
34 person;

35 J. Is not potentially dangerous to that person or others as  
36 the result of a mental disorder;

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

6 L. Is currently employed by or sponsored by a proprietary  
8 security organization or contract security company that has  
provided the information required by this section;

10 M. Has completed 20 hours of security guard training  
12 approved by the commissioner; and

14 N. At the request of the contract security company, the  
16 commissioner or the commissioner's designee, takes whatever  
18 action is required by law to allow the contract security  
company, the commissioner or the commissioner's designee to  
obtain information relevant to whether the person meets the  
requirements set forth in paragraphs A to M from:

20 (1) Hospitals and mental institutions either within or  
22 outside the State, limited to records of involuntary  
commitments;

24 (2) The courts;

26 (3) Law enforcement agencies; and

28 (4) The military.

30 2. Application for security guard license. A person who  
32 meets the minimum requirements under subsection 1 may submit an  
34 application for a security guard license. The application must  
contain the following information relating to the applicant, to  
be answered by the applicant:

36 A. Full name;

38 B. Full current address and addresses for the prior 5 years;

40 C. The date and place of birth, height, weight and color of  
42 eyes;

44 D. A record of previous issuances of, refusals to issue and  
46 renew, suspensions and revocations of license to be a  
48 security guard. The record of previous refusals to issue  
alone does not constitute cause for refusal and the record  
of previous refusals to renew and revocations alone  
constitutes cause for refusal only as provided in section  
50 9411-A; and

E. Answers to the following questions.

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(1) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a crime that is punishable by one year or more imprisonment or for any other crime alleged to have been committed by you with the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(2) Is there a formal charging instrument now pending against you in this or any other jurisdiction for a juvenile offense that involves conduct that, if committed by an adult, would be punishable by one year or more of imprisonment or for any other juvenile offense alleged to have been committed by you in the use of a dangerous weapon, as defined in Title 17-A, section 2, subsection 9, or of a firearm against another person?

(3) Have you ever been convicted of a crime described in subparagraph (1) or adjudicated as having committed a juvenile offense as described in subparagraph (2)?

(4) Is there a formal charging instrument now pending against you in this jurisdiction for any crime enumerated in section 9412?

(5) Is there a formal charging instrument now pending against you in this jurisdiction for a juvenile offense that involves conduct that, if committed by an adult, would be a crime enumerated in section 9412?

(6) Have you within the past 5 years been convicted of a crime described in subparagraph (4) or adjudicated as having committed a juvenile offense as described in subparagraph (5)?

(7) Are you a fugitive from justice?

(8) Are you a drug abuser, drug addict or drug-dependent person?

(9) Do you have a mental disorder that causes you to be potentially dangerous to yourself or others?

(10) Have you been adjudicated to be an incapacitated person pursuant to Title 18-A, article V, Parts 3 and 4, and not had that designation removed by order under Title 18-A, section 5-307, subsection (b)?

2                   (11) Have you been dishonorably discharged from the  
3                   military forces within the past 5 years?

4  
5                   (12) Are you an illegal alien?

6  
7                   3. Employer responsibility. An applicant for security  
8                   guard shall submit a completed application to the applicant's  
9                   employer. The employer shall submit to the commissioner the  
10                   completed application and certify that:

11                   A. The employer has verified the following:

12                   (1) The applicant's employment history for at least  
13                   the 10-year period ending on the date of the  
14                   application for employment;

15                   (2) The applicant's personal references;

16                   (3) That the applicant is a United States citizen or  
17                   resident alien;

18                   (4) Evidence of the applicant's military discharge  
19                   record, such as a DD-214;

20                   (5) The applicant has a high school diploma or  
21                   equivalent; and

22                   (6) The applicant evinces a level of physical fitness  
23                   commensurate with the demands of the position;

24                   B. The applicant has submitted to a drug screening test  
25                   administered by the employer according to a testing  
26                   procedure that meets the guidelines of the National  
27                   Institute on Drug Abuse or any successor organization, and  
28                   that tests for at least the following 10 drugs:  
29                   amphetamines, barbiturates, benzodiazepine, marijuana,  
30                   cocaine, methadone, methaqualone, codeine or morphine,  
31                   phencyclidine hydrochloride and propoxyphene hydrochlorine;  
32                   and that the employer will submit the result to the  
33                   commissioner when it becomes available; and

34                   C. The applicant will undergo at least 20 hours of security  
35                   guard training approved by the commissioner and the employer  
36                   will submit documentation when the training is completed.

37                   4. Temporary permit. Upon receiving the completed  
38                   application and employer certification, the commissioner may  
39                   issue a temporary security guard permit to an applicant. The  
40                   temporary permit entitles the applicant to act as a security  
41                   guard.

2 guard, except that the applicant may not carry a firearm or  
3 control a guard dog, for a period beginning with the issuance of  
4 the temporary permit not to exceed 90 days.

5 5. Security guard license. The commissioner may issue a  
6 security guard license to an applicant only if:

7 A. The applicant meets all the qualifications listed in  
8 subsection 1;

9 B. All the requirements of subsection 4 are met, including  
10 the submission of all necessary documentation by the  
11 employer; and

12 C. The licensing division of the Bureau of State Police has  
13 checked the applicant's criminal history record.

14 6. Application for original license. Applications and all  
15 required documentation for original licenses must be submitted to  
16 the commissioner on forms prescribed by the commissioner in  
17 accordance with the requirements of this section. The fee for a  
18 license application is \$150, of which \$50 must be submitted with  
19 the application and \$100 must be submitted upon issuance of the  
20 license. If the previously issued license has expired and has  
21 not been renewed within a period of 60 days, the application must  
22 be considered an original application and the same fee and all  
23 requirements of an original application apply. The holder of a  
24 valid contract security company license is exempt from the fee.  
25 Each application must be subscribed and sworn to.

26 7. Renewal of license. Each security guard license is  
27 issued for a term of 2 years and is, unless revoked or suspended,  
28 renewable biennially. The fee for a license renewal is \$100, \$50  
29 of which is refundable upon denial of renewal. If a license  
30 renewal is issued before the expiration date or within 60 days of  
31 the expiration date of the license being renewed, the license  
32 renewal is valid for one year from the expiration date of the  
33 license being renewed.

34 8. Change in status of licensee. The licensee shall notify  
35 the commissioner within 30 days of any material change in the  
36 information previously furnished or required to be furnished to  
37 the commissioner or any occurrence that could reasonably be  
38 expected to affect the licensee's right to a license under this  
39 chapter. Notwithstanding section 9411-A, the commissioner may  
40 revoke the license if the reported change makes the licensee  
41 ineligible for a license under this section.

42 9. Access to confidential records. Notwithstanding that  
43 certain records retained by governmental entities are by law made  
44 available to the public, the commissioner may, in the interest of  
45 public safety, deny access to such records to any person who is  
46 not a law enforcement officer or a person who is authorized to  
47 receive such information by law.

2 confidential, yet are necessary to the commissioner's  
4 determination of the applicant's good moral character and  
6 compliance with the additional requirements of this section and  
8 of section 9411-A, the following records must be made available,  
at the request of the contract security company, the commissioner  
or the commissioner's designee, for inspection by and  
dissemination to the contract security company, the commissioner  
or the commissioner's designee:

10 A. The records pertaining to involuntary commitments to  
12 Augusta Mental Health Institute and Bangor Mental Health  
Institute;

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

18 C. Juvenile and adult crime records; and

20 D. Military records.

22 **Sec. 18. 32 MRSA §9412, sub-§2, ¶¶C and D, as enacted by PL**  
24 **1981, c. 113, §2, are amended to read:**

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

36 D. To possess or utilize any vehicle or equipment  
38 displaying the words "police," "law enforcement officer," or  
40 the equivalent thereof, or have any sign, shield, marking,  
42 accessory or insignia that may indicate that the vehicle is  
44 a vehicle of a public law enforcement agency; or

46 **Sec. 19. 32 MRSA §9412, sub-§2, ¶E is enacted to read:**

48 E. To fail to conspicuously display the issued security  
50 guard temporary permit or license on the security guard's  
person unless the security guard is engaging in an  
undercover activity.

52 **Sec. 20. 32 MRSA §9413, as enacted by PL 1981, c. 113, §2, is**  
54 **amended to read:**

56 **§9413. Change in the status of contract security company licensee**

58 The contract security company licensee shall notify the  
60 commissioner within 30 days of any change in his the company's  
qualifying agent, officers or directors or material change in the

1 information previously furnished or required to be furnished to  
2 the commissioner or any occurrence which could reasonably be  
3 expected to affect the licensee's right to a license under this  
4 chapter.

6 Sec. 21. 32 MRSA §9416, as enacted by PL 1981, c. 113, §2, is  
7 repealed.

8 Sec. 22. 32 MRSA §9417, sub-§1, as amended by PL 1989, c. 773,  
9 §1, is repealed.

10 Sec. 23. 32 MRSA §9417, sub-§2, as amended by PL 1989, c. 773,  
11 §1, is further amended to read:

12 2. Public officials. Any law enforcement officer or other  
13 person employed by the United States, the State, or any political  
14 subdivision thereof, or any public instrumentality, while in the  
15 performance of that person's official duties; and  
16  
17  
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19

## 20 21 22 STATEMENT OF FACT

23 This bill amends the Private Security Guards Act to provide  
24 for licensing of security guards employed by both proprietary  
25 security organizations and contract security companies.  
26 Currently, only contract security guard companies are licensed  
27 and they must provide certain information regarding the security  
28 guards they employ to the Commissioner of Public Safety.  
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34  
35 This document has not yet been reviewed to determine the  
36 need for cross-reference, stylistic and other technical  
37 amendments to conform existing law to current drafting standards.  
38