

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1563

H.P. 1148

House of Representatives, May 11, 2011

An Act To Regulate the Licensing and Oversight of Professional Investigators

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative BURNS of Whiting.
Cosponsored by Senator KATZ of Kennebec and
Representatives: HASKELL of Portland, LAJOIE of Lewiston, PLUMMER of Windham,
Senator: GERZOFSKY of Cumberland.

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

2 **Sec. 1. 5 MRSA §12004-G, sub-§29-D** is enacted to read:

3 **29-D.**

4 Professional Board of Licensure Expenses Only 32 MRSA §8103-A
5 Investigators of Professional
6 Investigators

7 **Sec. 2. 17-A MRSA §1057, sub-§1, ¶A**, as enacted by PL 1989, c. 917, §2, is
8 amended to read:

9 A. Not being a law enforcement officer or a ~~private~~ professional investigator
10 licensed under Title 32, chapter 89 and actually performing as a ~~private~~ professional
11 investigator, the person possesses any firearm on the premises of a licensed
12 establishment posted to prohibit or restrict the possession of firearms in a manner
13 reasonably likely to come to the attention of patrons, in violation of the posted
14 prohibition or restriction; or

15 **Sec. 3. 17-A MRSA §1057, sub-§5**, as amended by PL 2009, c. 447, §20, is
16 further amended to read:

17 **5.** For purposes of this section, "under the influence of intoxicating liquor or drugs
18 or a combination of liquor and drugs or with an excessive alcohol level" has the same
19 meaning as "under the influence of intoxicants" as defined in Title 29-A, section 2401,
20 subsection 13. "Excessive alcohol level" means an alcohol level of 0.08 grams or more of
21 alcohol per 100 milliliters of blood or 210 liters of breath. Standards, tests and
22 procedures applicable in determining whether a person is under the influence or has an
23 excessive alcohol level within the meaning of this section are those applicable pursuant to
24 Title 29-A, sections 2411 and 2431; except that the suspension of a permit to carry
25 concealed firearms issued pursuant to Title 25, chapter 252, or of the authority of a
26 ~~private~~ professional investigator licensed to carry a concealed firearm pursuant to Title
27 32, chapter 89, is as provided in those chapters.

28 **Sec. 4. 17-A MRSA §1057, sub-§6, ¶B**, as enacted by PL 1989, c. 917, §2, is
29 amended to read:

30 B. If the person so convicted is licensed as a ~~private~~ professional investigator,
31 suspend for a period of 5 years that person's right as a ~~private~~ professional
32 investigator to carry a concealed firearm.

33 **Sec. 5. 25 MRSA §2002, sub-§9, ¶D**, as enacted by PL 1997, c. 360, §3, is
34 amended to read:

35 D. To a ~~private~~ professional investigator licensed under Title 32, chapter 89:

36 (1) The Chief of the State Police.

37 **Sec. 6. 32 MRSA §8101**, as enacted by PL 1981, c. 126, §2, is amended to read:

1 **§8101. Short title**

2 This chapter ~~shall be~~ is known and may be cited as the ~~Private~~ Professional
3 Investigators Act.

4 **Sec. 7. 32 MRSA §8102**, as enacted by PL 1981, c. 126, §2, is amended to read:

5 **§8102. Purpose**

6 ~~It is the~~ The purpose of this chapter is to regulate any person, firm, corporation or
7 other legal entity ~~engaging~~ engaged in the business of private ~~investigating~~ investigation.

8 **Sec. 8. 32 MRSA §8103, sub-§1**, as amended by PL 2001, c. 298, §1, is repealed.

9 **Sec. 9. 32 MRSA §8103, sub-§1-A** is enacted to read:

10 **1-A. Board.** "Board" means the Board of Licensure of Professional Investigators
11 under section 8103-A, as established under Title 5, section 12004-G, subsection 29-D.

12 **Sec. 10. 32 MRSA §8103, sub-§1-B** is enacted to read:

13 **1-B. Chief.** "Chief" means the Chief of the State Police or the chief's designee.

14 **Sec. 11. 32 MRSA §8103, sub-§1-C** is enacted to read:

15 **1-C. Computer forensics.** "Computer forensics" means a branch of digital forensic
16 science pertaining to legal evidence found in computers and digital storage media.

17 **Sec. 12. 32 MRSA §8103, sub-§2**, as enacted by PL 1981, c. 126, §2, is amended
18 to read:

19 **2. Investigative assistant.** "Investigative assistant" means a person who acts as a
20 ~~private professional~~ investigator under the ~~direct~~ supervision of a licensed ~~private~~
21 professional investigator in accordance with this chapter.

22 **Sec. 13. 32 MRSA §8103, sub-§3**, as enacted by PL 1981, c. 126, §2, is amended
23 to read:

24 **3. Licensee.** "Licensee" means any person licensed under this chapter as a ~~private~~
25 professional investigator or investigative assistant.

26 **Sec. 14. 32 MRSA §8103, sub-§4-A** is enacted to read:

27 **4-A. Private investigation.** "Private investigation" means for any consideration
28 whatsoever, to agree to obtain, or to in fact obtain information with reference to any of
29 the following:

30 A. A crime or other act committed or threatened against the laws or government of
31 the United States, any state or territory or any political subdivision of a state or
32 territory;

- 1 B. The identity, habits, conduct, movements, whereabouts, affiliations, associations,
2 transactions, reputation or character of any person;
- 3 C. The cause of or responsibility for libels, fires, losses, accidents or damage or
4 injury to persons or property;
- 5 D. The location, disposition or recovery of lost or stolen property;
- 6 E. Evidence to be used before a court, board, officer or investigative committee,
7 including evidence derived through computer forensics; or
- 8 F. The detection of surreptitiously installed devices designed for eavesdropping or
9 observation, or both for video and audio devices.

10 **Sec. 15. 32 MRSA §8103, sub-§5**, as enacted by PL 1981, c. 126, §2, is repealed
11 and the following enacted in its place:

12 **5. Professional investigator.** "Professional investigator" means any person who
13 engages in or solicits business or accepts employment to conduct private investigations.

14 **Sec. 16. 32 MRSA §8103-A** is enacted to read:

15 **§8103-A. Board of Licensure of Professional Investigators**

16 **1. Establishment.** The Board of Licensure of Professional Investigators, referred to
17 in this chapter as "the board," is established pursuant to Title 5, section 12004-G,
18 subsection 29-D to administer the provisions of this chapter to protect the public by
19 improving the standards relative to the practice of private investigation and from
20 unqualified practitioners.

21 **2. Duties.** The board has the following powers and duties:

22 A. To provide advice regarding rules proposed by the chief;

23 B. At the request of the chief, to review written examinations for professional
24 investigator applicants;

25 C. To advise the chief on granting, suspending and revoking the licenses of
26 professional investigators;

27 D. To establish standards governing the safety and conduct of persons licensed under
28 this chapter; and

29 E. To recommend investigations regarding alleged violations of the provisions of this
30 chapter and any rules adopted by the board.

31 **3. Members.** The board consists of 7 members who must be residents of the State
32 and are appointed by the Governor as follows:

33 A. Two members of the Maine State Police recommended by the chief;

34 B. One representative of the Office of the Attorney General;

35 C. Three members of the public, with no more than 2 holding a license under this
36 chapter, to be appointed to reflect a wide diversity of private investigation

1 experience. At least one member must be chosen for the member's expertise in
2 operating a private investigation company in this State and minimum of 5 years of
3 experience in private investigation; and

4 D. One administrator from a local or county law enforcement agency.

5 **4. Terms; removal.** Terms of the members of the board are for 3 years. The
6 appointment of members must comply with Title 10, section 8009. Members may be
7 removed by the Governor for cause.

8 **5. Meetings; chair; quorum.** The board shall meet at least once a year to conduct
9 its business and to elect a chair. Additional meetings must be held as necessary to
10 conduct the business of the board and may be convened at the call of the chair or a
11 majority of the board members. Four members of the board constitute a quorum.

12 **6. Rules.** Rules adopted by the board pursuant to this subsection are routine
13 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

14 **Sec. 17. 32 MRSA §8104, sub-§1,** as enacted by PL 1981, c. 126, §2, is amended
15 to read:

16 **1. License.** ~~No~~ A person may not act as a private professional investigator without
17 first obtaining from the commissioner chief a license to be a private professional
18 investigator or investigative assistant.

19 **Sec. 18. 32 MRSA §8104, sub-§2, ¶A,** as enacted by PL 1981, c. 126, §2, is
20 amended to read:

21 A. A person employed by or on behalf of the State, any Federal Government, any
22 state or any Canadian province or political subdivision thereof, or any public
23 instrumentality thereof, while in the performance of his the person's official duties;

24 **Sec. 19. 32 MRSA §8104, sub-§2, ¶B,** as enacted by PL 1981, c. 126, §2, is
25 repealed.

26 **Sec. 20. 32 MRSA §8104, sub-§2, ¶E,** as enacted by PL 1981, c. 126, §2, is
27 amended to read:

28 E. An insurance company, or agent thereof, investigating the personal habits and
29 financial responsibility of applicants for insurance or indemnity bonds;

30 **Sec. 21. 32 MRSA §8104, sub-§2, ¶F,** as enacted by PL 1981, c. 126, §2, is
31 amended to read:

32 F. An attorney admitted to practice law in the State acting in a professional capacity;

33 **Sec. 22. 32 MRSA §8104, sub-§2, ¶H,** as enacted by PL 1981, c. 126, §2, is
34 amended to read:

35 H. An insurance adjuster or investigator, or an employee investigating claims for or
36 against his the employee's employer;

1 **Sec. 23. 32 MRSA §8104, sub-§2, ¶I**, as enacted by PL 1981, c. 126, §2, is
2 amended to read:

3 I. A person engaged in compiling genealogical information or otherwise tracing
4 lineage or ancestry, by primarily using public records and historical information or
5 databases;

6 **Sec. 24. 32 MRSA §8104, sub-§2, ¶J**, as enacted by PL 1981, c. 126, §2, is
7 amended to read:

8 J. A person possessing a valid ~~private~~ professional investigator's license granted
9 under any prior existing provision of law of this State, ~~provided that~~ as long as, upon
10 expiration of the license, the person ~~shall be~~ is governed by this section; ~~or~~

11 **Sec. 25. 32 MRSA §8104, sub-§2, ¶K**, as enacted by PL 1981, c. 126, §2, is
12 repealed and the following enacted in its place:

13 K. A person employed exclusively and regularly by an employer in connection with
14 the affairs of the employer only, and there exists a bona fide employer-employee
15 relationship in which the employee is reimbursed on an hourly basis;

16 **Sec. 26. 32 MRSA §8104, sub-§2, ¶L** is enacted to read:

17 L. A person acting within the scope of the person's professional practice to analyze
18 facts, evidence or other data for the purposes of supplying expert testimony in a legal
19 proceeding; or

20 **Sec. 27. 32 MRSA §8104, sub-§2, ¶M** is enacted to read:

21 M. An Internet research company or an individual who is solely engaged in the
22 retrieval of data from an online source or database and who does not question
23 individuals in person, by phone or by electronic means, when those electronic means
24 are used as a tool to gather information for a fee.

25 **Sec. 28. 32 MRSA §8105, first ¶**, as enacted by PL 1981, c. 126, §2, is amended
26 to read:

27 A person is qualified to be licensed as a ~~private~~ professional investigator who:

28 **Sec. 29. 32 MRSA §8105, sub-§1**, as enacted by PL 1981, c. 126, §2, is amended
29 to read:

30 **1. Age.** Is at least ~~18~~ 21 years of age;

31 **Sec. 30. 32 MRSA §8105, sub-§4**, as amended by PL 1995, c. 694, Pt. D, §56
32 and affected by Pt. E, §2 and amended by PL 2003, c. 689, Pt. B, §6, is further amended
33 to read:

34 **4. Character.** Has demonstrated good moral character and has not been convicted of
35 a crime ~~which~~ that is punishable by a maximum term of imprisonment equal to or
36 exceeding one year, or a crime enumerated in this chapter. The determination of good
37 moral character ~~shall~~ must be made in writing, based upon evidence recorded by a

1 governmental entity. The ~~commissioner~~ chief shall consider matters recorded within the
2 previous 5 years including, but not limited to, the following:

- 3 A. Records of incidents of abuse by the applicant of family or household members
4 provided pursuant to Title 19-A, section 4012, subsection 1;
- 5 B. Records provided by the Department of Health and Human Services regarding the
6 failure of the applicant to meet child or family support obligations;
- 7 C. Records of 3 or more convictions of the applicant for Class D or E crimes;
- 8 D. Records of 3 or more civil violations by the ~~applicants~~ applicant; or
- 9 E. Records that the applicant has engaged in recklessness or negligence that
10 endangered the safety of others, including the use of weapons or motor vehicles;

11 **Sec. 31. 32 MRSA §8105, sub-§5**, as amended by PL 2009, c. 20, §1, is further
12 amended to read:

13 **5. Application.** Submits an application approved by the chief that contains, at a
14 minimum, includes the following information:

- 15 A. ~~Full~~ The applicant's full name;
- 16 B. ~~Full~~ The applicant's full current residential address and the applicant's residential
17 addresses for during the prior previous 5 years;
- 18 C. The applicant's date and place of birth, height, weight and color of eyes;
- 19 D. A written statement signed by the applicant granting the chief of police authority
20 to check the criminal records of any law enforcement agency that pertains to any
21 matter involving the applicant. The applicant must agree to submit to having the
22 applicant's fingerprints taken by the issuing authority if it becomes necessary to
23 resolve any question as to the applicant's identity; and
- 24 E. ~~Answers~~ The answers to the following questions:
 - 25 (1) Are you currently under indictment or information for a crime for which the
26 possible penalty is imprisonment for a period equal to or exceeding one year?
 - 27 (2) Have you ever been convicted of a crime for which the possible penalty was
28 imprisonment for a period equal to or exceeding one year?
 - 29 (3) Are you a fugitive from justice?
 - 30 (4) Are you an unlawful user of or addicted to marijuana or any other drug?
 - 31 (5) Have you been adjudged mentally defective or been committed to a mental
32 institution within the past 5 years? or
 - 33 (6) Are you an illegal alien?

34 By affixing the applicant's signature, the applicant certifies that the information in the
35 application provided by the applicant is true and correct and that the applicant
36 understands that an affirmative answer to any of the questions in paragraph E is cause for
37 ~~refusal~~ a license to be denied and any false statement may result in prosecution as
38 provided in section 8114.

1 **Sec. 32. 32 MRSA §8105, sub-§7-A**, as amended by PL 2001, c. 298, §3, is
2 further amended to read:

3 **7-A. Experience.** Meets at least one of the following criteria:

4 A. ~~Has been employed for consideration for a minimum of 1,700 hours as an~~
5 successfully completed an investigative assistant ~~possessing a valid license issued by~~
6 the commissioner. The 1,700 hours must have been completed within 2 years after
7 the date of issuance of the investigative assistant license but may not have been
8 completed in less than one year after the date of issuance of the license sponsorship
9 program pursuant to section 8110-B and who has a minimum of 60 academic credits
10 of postsecondary education in a related field of study or an equivalent certificate of
11 study for private investigation;

12 B. Has been employed for a minimum of ~~one year~~ 3 years as a member of an
13 investigative service of the United States or as a sworn member of a branch of the
14 United States Armed Forces or a federal investigative agency. For purposes of this
15 paragraph, "a member of an investigative service of the United States" means a
16 full-time federal investigator or detective of the United States Armed Forces;

17 B-1. Has held for a period of not less than 3 years a valid professional investigator's
18 license granted under the laws of another state or territory of the United States if:

19 (1) The requirements of the state or territory for a professional investigator's
20 license were, at the date of the licensing, substantially equivalent to the
21 requirements of this chapter; and

22 (2) The other state or territory grants similar reciprocity to license holders in this
23 State;

24 C. Has been employed for a minimum of ~~one year~~ 3 years as a law enforcement
25 officer of a state or political subdivision of a state and has met the training
26 requirements set forth in Title 25, section 2804-C; or is qualified to receive a waiver
27 from those requirements; or

28 D. Possesses a minimum of 6 years of preparation consisting of a combination of:

29 (1) Work experience, including at least 2 years in a nonclerical occupation
30 related to law or the criminal justice system; and

31 (2) Educational experience, including at least:

32 (a) Sixty academic credits of ~~post-secondary~~ postsecondary education in a
33 related field of study acquired at an accredited junior college, college or
34 university; ~~or~~

35 (b) An associate degree ~~in law enforcement, based on 2 years of~~
36 ~~post-secondary instruction, conferred by an established~~ acquired at an
37 accredited junior college, college, university or technical college in police
38 administration, security management, investigation, law, criminal justice or
39 computer forensics or other course of study certified by the computer
40 forensics industry; and or

1 (c) An associate degree in any related studies that are acceptable to the chief;
2 and

3 **Sec. 33. 32 MRSA §8105, sub-§8**, as enacted by PL 1981, c. 126, §2, is amended
4 to read:

5 **8. Examination.** Has passed an examination administered by the ~~commissioner~~
6 chief covering subjects pertaining to private investigation to be prescribed by ~~him~~ the
7 chief, ~~provided that except that~~ a person currently licensed, as described in section 8106,
8 may at no time be required to take any such examination.

9 **Sec. 34. 32 MRSA §8106**, as enacted by PL 1981, c. 126, §2, is amended to read:

10 **§8106. Acquisition of license by persons currently licensed**

11 A person possessing, under Maine law, a valid ~~private~~ professional investigator's
12 license on the effective date of this chapter whose license then expires, ~~shall~~ by
13 application, compliance with section 8105, subsection 8 and payment of the required fee,
14 ~~be is~~ entitled to a professional investigator's license.

15 **Sec. 35. 32 MRSA §8107**, as enacted by PL 1981, c. 126, §2, is amended to read:

16 **§8107. Application for original license**

17 Applications for original licenses ~~shall~~ must be made to the ~~commissioner~~ chief in
18 writing under oath on forms prescribed by ~~him~~ the chief with respect to the requirements
19 of section 8105. The application ~~shall~~ must be accompanied by the fee required under
20 section 8117; and by a certification, by each of 3 reputable citizens of the State, of the
21 following:

22 **1. Residence.** That ~~he~~ the reputable citizen resides in the community in which the
23 applicant resides, has a place of business or proposes to conduct ~~his~~ the applicant's private
24 ~~investigator~~ investigation business;

25 **2. Knowledge of applicant.** That ~~he~~ the reputable citizen has personally known the
26 applicant for at least 3 years;

27 **3. Relation to applicant.** That ~~he~~ the reputable citizen is not related to the applicant
28 by blood or marriage;

29 **4. Character of applicant.** That the applicant is honest and of good moral
30 character; and

31 **5. Truth of statements in application.** That ~~he~~ the reputable citizen has read the
32 application and believes each statement in it to be true.

33 **Sec. 36. 32 MRSA §8108**, as enacted by PL 1981, c. 126, §2, is repealed.

34 **Sec. 37. 32 MRSA §8109**, as amended by PL 2003, c. 620, §1, is further amended
35 to read:

1 **§8109. Renewal of license**

2 Each ~~private professional~~ investigator's license is valid for an initial term of 2 years
3 and is, unless revoked or ~~suspended~~, renewable every 4 years after the initial term.

4 **Sec. 38. 32 MRSA §8110, sub-§2**, as amended by PL 1983, c. 221, §1, is further
5 amended to read:

6 **2. Application.** ~~Application~~ An application for an investigative assistant's license
7 ~~shall~~ must be made to the ~~commissioner~~ chief in accordance with the requirements of
8 ~~sections~~ section 8105, subsection 5 and section 8107. The application ~~shall~~ must be
9 accompanied by the fee required under section 8117.

10 **Sec. 39. 32 MRSA §8110, sub-§3**, as amended by PL 2003, c. 620, §2, is further
11 amended to read:

12 **3. Term of license.** The investigative assistant's license is valid for 2 years from the
13 date of issuance and is not renewable. Within those 2 years the investigative assistant
14 must complete 1,200 hours of training.

15 **Sec. 40. 32 MRSA §8110-A**, as enacted by PL 1985, c. 207, §1, is amended to
16 read:

17 **§8110-A. Employment of investigative assistant**

18 A ~~private professional~~ investigator duly licensed under this chapter whose primary
19 place of business is located in the State may employ an investigative ~~assistants~~ provided
20 that assistant pursuant to section 8110-B as long as:

21 **1. Limit on number of investigative assistants.** No more than ~~3~~ one investigative
22 ~~assistants are~~ assistant is employed at one time; and

23 **2. Investigative assistant to be licensed.** ~~Each~~ The investigative assistant is duly
24 licensed under this chapter.

25 **Sec. 41. 32 MRSA §8110-B** is enacted to read:

26 **§8110-B. Sponsorship of investigative assistant**

27 **1. Supervision and documentation of investigative assistant's activities.** The
28 sponsoring professional investigator is responsible for overseeing and documenting the
29 activities of the investigative assistant under the sponsoring professional investigator's
30 supervision, including:

31 A. Keeping a record of all 1,200 training hours, including hours worked on specific
32 activities performed by the investigative assistant; and

33 B. Providing specific training in areas determined by the chief by rule.

1 **2. Distribute materials.** The holder of an investigative assistant's license may not
2 obtain or distribute any materials, such as a business card, letterhead, invoice or brochure,
3 in any name other than that of the sponsoring professional investigator.

4 **3. Termination of investigative assistant.** A duly licensed professional investigator
5 who terminates the sponsorship of a licensed investigative assistant must notify the chief
6 of the termination immediately. The notification must be in writing and contain the cause
7 of the termination. The chief shall immediately notify the investigative assistant that the
8 investigative assistant must cease all licensed activity.

9 **4. Rules.** The chief, with the assistance of the board, shall adopt rules that establish
10 the responsibilities of the investigative assistant and the sponsoring professional
11 investigator. Rules adopted pursuant to this subsection are routine technical rules as
12 defined in Title 5, chapter 375, subchapter 2-A.

13 **Sec. 42. 32 MRSA §8111**, as enacted by PL 1981, c. 126, §2, is amended to read:

14 **§8111. Bonding and insurance requirements**

15 **1. Bonding requirement.** A person licensed as a ~~private professional~~ investigator
16 shall give to the ~~commissioner~~ chief a bond in the sum of \$10,000 if ~~he~~ the licensee is a
17 resident of the State and in the sum of \$50,000 if ~~he~~ the licensee is not a resident of the
18 State.

19 A person licensed as an investigative assistant shall give to the ~~commissioner~~ chief a bond
20 in the sum of \$20,000.

21 **2. Form of a bond.** Each bond ~~shall~~ must:

22 A. Be in a form prescribed by the ~~commissioner~~ chief;

23 B. Be executed by the licensee as principal and by a surety company authorized to do
24 business in this State as surety; and

25 C. Be conditioned upon the honest conduct of the business of the licensee and the
26 right of any person, including the officer of any aggrieved labor union or association,
27 whether or not incorporated, injured by the intentional, knowing, reckless or
28 negligent act of the licensee to bring, in ~~his~~ the licensee's own name, an action on the
29 bond.

30 **3. Insurance requirement.** A person licensed as a professional investigator shall
31 provide to the chief proof of insurance naming the licensee as the insured issued by an
32 insurer authorized to do business in the State in the amount of a minimum of \$10,000 in
33 property damages, \$100,000 for injury or death of a person and \$200,000 for injuries to
34 or deaths of more than one person arising out of the operation of the licensed activity.
35 Proof of insurance must be submitted to the chief annually.

36 **Sec. 43. 32 MRSA §8113**, as amended by PL 2001, c. 298, §§4 and 5, is further
37 amended to read:

1 **§8113. Refusal; suspension; revocation; grounds**

2 ~~The commissioner~~ In accordance with the Maine Administrative Procedure Act, the
3 chief may, after notice of an opportunity for hearing in conformance with the provisions
4 of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, refuse to
5 issue or renew a license. ~~The District Court may,~~ suspend or revoke the license of any
6 person licensed under this chapter. ~~The following are grounds for an action to refuse to~~
7 issue, suspend, revoke or refuse to renew the license of a person licensed under this
8 chapter, impose probationary conditions or a fine or issue a written warning on the
9 following grounds:

10 **1. Fraud or deceit.** The practice of fraud or deceit in obtaining a license under this
11 chapter or in connection with service rendered within the scope of the license issued;

12 **2. Conviction of certain crimes.** Conviction of a crime ~~which~~ that involves
13 dishonesty or false statement or ~~which~~ that relates directly to the practice for which the
14 licensee is licensed or ~~which~~ that is enumerated in this chapter; or conviction of any crime
15 for which incarceration for one year or more may be imposed;

16 **3. Violation of chapter or rule.** Any violation of this chapter or any rule adopted
17 by the ~~commissioner~~ chief;

18 **4. Aiding or abetting unlicensed practice of private investigation.** Aiding or
19 abetting the practice of private investigation by a person not duly licensed under this
20 chapter and who represents ~~himself~~ to be others that the person is duly licensed;

21 **5. Failure to maintain and insurance bond.** Failure to maintain a bond and
22 insurance as required by section 8111;

23 **6. Incompetence.** Incompetence in the practice for which ~~he~~ the person is licensed.
24 A licensee ~~shall be deemed~~ is considered incompetent in the practice if the licensee has:

25 A. Engaged in conduct ~~which~~ that evidences a lack of ability or fitness to discharge
26 the duty owed by the licensee to a client or the general public; or

27 B. Engaged in conduct ~~which~~ that evidences a lack of knowledge; or an inability to
28 apply principles or skills to carry out the practice for which ~~he~~ the person is licensed;

29 **7. Employment of prohibited person.** Employment, in connection with a private
30 investigation business, in any capacity, of any person who has been convicted of a crime
31 punishable by imprisonment for one year or more or any former licensee whose license
32 has been revoked; ~~or~~

33 **8. Representation that licensee is sworn peace officer.** Representation by the
34 licensee ~~which~~ that suggests, or ~~which~~ that would reasonably cause another person to
35 believe, that ~~he~~ the licensee is a sworn peace officer of this State, any political
36 subdivision of this State, any other state or ~~of~~ the Federal Government;

37 **9. Unpermitted contact with a child.** Contact or communication with a child who
38 has not attained 14 years of age regarding a private investigation if that contact or

1 communication includes conduct with the intent to harass, torment, intimidate or threaten
2 a child;

3 **10. Misstatement.** Knowingly and willfully making a material misstatement in
4 filing an application for a license or renewal of a license;

5 **11. Violation of standards of acceptable professional conduct.** A violation of the
6 standards of acceptable professional conduct adopted by rule by the chief; or

7 **12. Cause for refusal.** Committing an act that would have been cause for the refusal
8 to issue a license had the act occurred and been known to the chief at the time of issuance
9 of a license.

10 The chief may reconsider, modify or reverse probation, suspension or other
11 disciplinary action.

12 **Sec. 44. 32 MRSA §8113-A**, as amended by PL 1995, c. 65, Pt. A, §132 and
13 affected by §153 and Pt. C, §15, is further amended to read:

14 **§8113-A. Suspension for refusal**

15 **1. Immediate suspension.** If the ~~commissioner~~ chief has probable cause to believe
16 that a person licensed pursuant to this chapter is required to submit to chemical testing for
17 the presence of intoxicating liquor or drugs pursuant to Title 17-A, section 1057 or for
18 conduct that occurs while the licensee is in possession of a loaded firearm and the
19 licensee refuses to submit to the required testing, the ~~commissioner~~ chief shall
20 immediately suspend the licensee's right to carry a concealed firearm.

21 **2. Report to chief.** ~~The~~ A law enforcement officer who has probable cause to
22 require chemical testing shall promptly notify the ~~commissioner~~ chief of ~~the~~ a licensee's
23 refusal and provide the ~~commissioner~~ chief with a report of the facts and circumstances of
24 the requirement to submit to chemical testing and of the licensee's refusal.

25 **3. Suspension in effect during pendency.** ~~The~~ A suspension remains in effect until
26 the entry of judgment if charges are filed of violating Title 17-A, section 1057 or of
27 operating a motor vehicle, snowmobile, ATV or watercraft under the influence of
28 intoxicating liquor or drugs, unless it is determined by the court in which the criminal
29 charge or civil violation is pending, or by the Secretary of State if a hearing is held
30 pursuant to Title 29-A, section 2483, that the law enforcement officer did not have
31 probable cause to require the licensee to submit to chemical testing.

32 **Sec. 45. 32 MRSA §8114**, as corrected by RR 2003, c. 2, §98, is amended to read:

33 **§8114. Unlawful acts**

34 **1. Acting without license; false representation.** It is a Class D crime for any
35 person knowingly to commit any of the following acts:

36 A. Subject to section 8104, to act as a ~~private~~ professional investigator without a
37 valid license;

- 1 B. To falsely represent that ~~he~~ the person is the holder of a valid license;
- 2 C. To falsely represent that any person in ~~his~~ the person's employ is a ~~private~~
3 professional investigator or investigative assistant; or
- 4 D. To make any false statements or material omission in any application filed with
5 the ~~commissioner~~ chief.

6 **2. Representation as peace officer; employment of felon; failure to surrender**
7 **license.** It is a Class D crime for a licensed ~~private~~ professional investigator or
8 investigative assistant knowingly to commit any of the following acts:

- 9 A. To make any representation, including, but not limited to, presentation of a badge,
10 that suggests, or that would reasonably cause another person to believe, that the
11 licensed ~~private~~ professional investigator or investigative assistant is a sworn peace
12 officer of this State, any political subdivision ~~thereof~~ of this State, or any other state
13 or ~~of~~ the Federal Government;
- 14 B. To employ, in connection with a private ~~investigator~~ investigation business, in
15 any capacity, any person who has been convicted of a felony or any former licensee
16 whose license has been revoked; or
- 17 C. To fail or refuse to surrender ~~his~~ the professional investigator's license to the
18 ~~commissioner~~ chief following revocation or suspension.

19 **3. Employing unlicensed individual.** It is a Class D crime for a licensed ~~private~~
20 professional investigator knowingly to employ or engage any other person to act as a
21 ~~private~~ professional investigator unless the person so employed or engaged is licensed as
22 a ~~private~~ professional investigator or investigative assistant.

23 **4. Failure of investigative assistant to return equipment.** It is a Class D crime for
24 a licensed investigative assistant knowingly to fail to return immediately on demand, or
25 within 7 days of termination of ~~his employment~~ the investigative assistant's sponsorship,
26 any item of equipment issued to ~~him~~ the investigative assistant by ~~his employer~~ the
27 investigative assistant's sponsor.

28 **5. Other unlawful acts.** It is a Class D crime for a person licensed under this
29 chapter or any person employed by ~~him~~ knowingly the person intentionally to commit
30 any of the following acts:

- 31 A. To incite, encourage or aid any person who has become a party to any strike to
32 commit any unlawful act against any person or property;
- 33 B. To incite, stir up, create or aid in the inciting of discontent or dissatisfaction
34 among the employees of any person with the intention of having them strike;
- 35 C. To interfere with or prevent lawful and peaceful picketing during strikes;
- 36 D. To interfere with, restrain or coerce employees in the exercise of their right to
37 form, join or assist any labor organization of their ~~own~~ choosing;
- 38 E. To interfere with or hinder lawful or peaceful collective bargaining between
39 employers and employees;

1 F. To pay, offer to give any money, gratuity, consideration or other thing of value,
2 directly or indirectly, to any person for any verbal or written report of the lawful
3 activities of employees in the exercise of their right to organize, form or assist any
4 labor organization and to bargain collectively through representatives of their ~~own~~
5 choosing;

6 G. To advertise for, recruit, furnish or replace or offer to furnish or replace for hire
7 or reward, within or outside the State, any skilled or unskilled help or labor, armed
8 guards, other than armed guards employed for the protection of payrolls, property or
9 premises, for service upon property ~~which~~ that is being operated in anticipation of or
10 during the course of a strike;

11 H. To furnish armed guards upon the highways for persons involved in labor
12 disputes;

13 I. To furnish or offer to furnish to employers or their agents any arms, munitions,
14 tear gas implements or any other weapons;

15 J. To send letters of literature to employers offering to eliminate labor unions; or

16 K. To advise any person of the membership of an individual in a labor organization
17 for the purpose of preventing that individual from obtaining or retaining employment.

18 **Sec. 46. 32 MRSA §8114-A** is enacted to read:

19 **§8114-A. Complaint investigation; disciplinary actions**

20 **1. Complaint investigation.** The chief shall investigate a complaint, on the chief's
21 own motion or upon receipt of a written complaint filed with the chief, regarding
22 noncompliance with or violation of this chapter or of rules adopted by the chief. The
23 chief shall adopt rules regarding the receipt and investigation of complaints. Rules
24 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
25 chapter 375, subchapter 2-A.

26 The chief shall notify the licensee of the content of the complaint filed against the
27 licensee as soon as possible, but not less than 60 days after receipt of the information.
28 The licensee shall respond within 30 days. If the chief determines that a violation took
29 place but was not of a serious nature, the chief may issue a written warning to the
30 licensee. A copy of the warning and licensee's response to the complaint must be placed
31 in the licensee's permanent file.

32 The licensee may, within 30 days of receipt of a warning, file a request for a hearing.
33 Upon receipt of the request, the chief shall set aside the written warning and set the
34 matter for hearing in accordance with the provisions of the Maine Administrative
35 Procedure Act.

36 **2. Hearing.** If an investigation under subsection 1 reveals evidence supporting the
37 complaint, the chief shall set the matter for hearing in accordance with the provisions of
38 the Maine Administrative Procedure Act before suspending or revoking a license or
39 imposing probationary or supervisory conditions or a fine.

1 **3. Aggrieved by disciplinary action.** A licensee aggrieved by a disciplinary action
2 of the chief may bring an action in the Superior Court.

3 **4. Voluntary compliance.** At any time during the investigative or hearing process
4 under this section, the chief may accept an assurance of voluntary compliance from the
5 licensee if the assurance effectively deals with the complaint.

6 **Sec. 47. 32 MRSA §8115,** as enacted by PL 1981, c. 126, §2, is repealed and the
7 following enacted in its place:

8 **§8115. Identification cards; badges prohibited**

9 **1. Issuance of identification cards.** The chief shall design and issue to each person
10 licensed under this chapter an identification card featuring a recent photograph of the
11 licensee.

12 **2. Use of badges prohibited.** A person licensed under this chapter may not carry or
13 present a badge that suggests, or that would reasonably cause another person to believe,
14 that the licensed professional investigator or investigative assistant is a sworn peace
15 officer of this State, any political subdivision of this State, any other state or the Federal
16 Government.

17 **Sec. 48. 32 MRSA §8116,** as enacted by PL 1981, c. 126, §2, is amended to read:

18 **§8116. Powers of the chief**

19 **1. Subpoenas.** In any investigation conducted by the ~~commissioner~~ chief under this
20 chapter, the ~~commissioner~~ chief may issue subpoenas to compel the attendance of
21 witnesses and the production of evidence relevant to any fact in issue.

22 **2. Contempt.** If a witness refuses to obey a subpoena or to give any evidence
23 ~~relevant~~ relevant to proper inquiry by the ~~commissioner~~ chief, the Attorney General may
24 petition the Superior Court in the county where the refusal occurred to find the witness in
25 contempt. The Attorney General shall cause to be served on that witness an order
26 requiring ~~him~~ the witness to appear before the Superior Court to show cause why ~~he~~ the
27 witness should not be adjudged in contempt. The court shall, in a summary manner, hear
28 the evidence and, if it is such as to warrant ~~him~~ the witness in doing so, punish that
29 witness in the same manner and to the same extent as for contempt committed before the
30 Superior Court or with reference to the process of the Superior Court.

31 **3. Rules.** The ~~commissioner~~ chief shall adopt ~~all~~ rules necessary to administer this
32 chapter, including, but not limited to, fixing application and license fees, standards of
33 acceptable professional conduct and establishing a training requirement for investigative
34 assistants. Rules adopted pursuant to this subsection are routine technical rules as defined
35 in Title 5, chapter 375, subchapter 2-A.

36 **Sec. 49. 32 MRSA §8117,** as amended by PL 2003, c. 620, §4, is further amended
37 to read:

1 **§8117. Fees**

2 **1. Amount.** The fee for an original biennial license is ~~\$400~~ \$500, of which \$50 must
3 be submitted with the application and ~~\$350~~ \$450 must be submitted upon issuance of the
4 license. The fee for a 4-year renewal is ~~\$400~~ \$500, which is refundable upon denial of
5 renewal. The fee for an investigative assistant's license is \$600, of which \$200 must be
6 submitted with the application and \$400 must be submitted upon issuance of the license.

7 **2. Expiration.** If a previously issued license has expired and not been renewed
8 within a period of 60 days, the application ~~shall~~ must be considered the original
9 application and the same fees and all requirements of an original application ~~shall~~ apply.

10 **3. Expenses.** The fees required under this chapter ~~shall~~ must be applied to the
11 expense of administering this chapter.

12 **Sec. 50. 32 MRSA §8120-A**, as enacted by PL 1997, c. 360, §5, is amended to
13 read:

14 **§8120-A. Firearms**

15 A ~~private professional~~ investigator licensed under this chapter may carry a firearm
16 while performing the duties of a ~~private professional~~ investigator only after being issued a
17 concealed weapons permit by the ~~Chief of the State Police~~ chief pursuant to Title
18 25, chapter 252 and passing the written firearms examination prescribed by the
19 ~~commissioner~~ chief.

20 **Sec. 51. 32 MRSA §8121**, as enacted by PL 2003, c. 620, §5, is amended to read:

21 **§8121. Confidentiality when under contract to law enforcement agency**

22 A ~~private professional~~ investigator or investigative assistant who enters into a written
23 contract with a law enforcement agency in this State to provide investigative services or
24 consultation to the law enforcement agency is subject to the same provisions of law
25 regarding confidentiality as are employees of the law enforcement agency with which the
26 ~~private professional~~ investigator or investigative assistant is under contract.

27 **Sec. 52. 32 MRSA §8122** is enacted to read:

28 **§8122. Professional investigators immune from civil liability**

29 A professional investigator who reports criminal activity to a law enforcement agency
30 is immune from civil liability for making a report or information available to law
31 enforcement as long as it is made in good faith and with reasonable belief in its accuracy
32 and is in compliance with this chapter.

33 **Sec. 53. 32 MRSA §8123** is enacted to read:

1 licensee, of the content of the complaint not less than 60 days after receipt of the written
2 complaint. It requires the Chief of the State Police to adopt rules regarding the receipt
3 and investigation of complaints. The bill also requires the Chief of the State Police to
4 adopt rules regarding the standards of acceptable professional conduct.