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**SFA**



**BILL ANALYSIS**

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House Bill 5917 (Substitute H-1 as passed by the House)  
Sponsor: Representative Alan Sanborn  
House Committee: Criminal Law and Corrections  
Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 11-30-00

## CONTENT

**The bill would amend the Private Security Guard Act to:**

- **Include within the scope of the Act's licensure provisions people hired to protect individuals, as well as property.**
- **Make it a felony, rather than a misdemeanor, to engage in the security business without a license, and specify penalties for misdemeanor violations of the Act.**
- **Delete a provision for dual licensure as a security guard and a private detective.**
- **Revise the crimes for which an applicant must not have been convicted, and that are grounds for license revocation.**
- **Increase the experience requirement for applicants.**
- **Provide for temporary licensure.**
- **Increase the amount of an applicant's bond or insurance.**
- **Establish a late renewal fee.**
- **Allow the suspension of a license.**
- **Revise provisions concerning patches and badges.**
- **Delete requirements that alarm system equipment use particular standards.**
- **Repeal sections of the Act pertaining to false alarms and the licensure of pre-existing businesses (Sections 35 and 28).**

The bill also would change the name of the Act to the "Private Security Business and Security Alarm Act".

## Licensure Requirement: Felony

Currently, the Act prohibits a person who is not licensed under the Act from engaging in the business of alarm system contractor, alarm system agent, private security guard, private police, special police, or patrol service, or an agency furnishing those services. The bill would refer to a "security alarm system contractor", instead of an alarm system contractor; refer to "private security police", instead of "private police"; and delete references to alarm system agent and special police. The definitions of "private security guard" and "private security police" would refer to the protection of individuals as well as property; currently, the definitions refer to the protection of property only.

The Act also prohibits a person from advertising its business to be that of an alarm system contractor, alarm system agent, private security guard agency, or an agency furnishing those services without having obtained a license from the Department of State Police.

In addition, the Act prohibits a person from selling, installing, operating, or contracting to provide a device that, upon activation, initiates the automatic calling or dialing of, or makes a connection directly to, a telephone assigned to a public service, utility, or police agency, for the purpose of delivering a recorded message, without first receiving written permission from that service, utility, or agency.

A violation of these prohibitions is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$1,000. Under the bill, a violation would be a felony punishable by imprisonment for up to four years and/or a maximum fine of \$1,000.

## Licensure Criteria

The criteria for licensure include a requirement that

a person be a U.S. citizen. A person also must be, and have been for at least one year, a resident of Michigan. The bill would delete those requirements.

Presently, a person must not have been under any sentence, including parole, probation, or incarceration, for the commission of a felony within five years before the date of application. The bill would remove the five-year limit on that criterion. Also, a person could not have been convicted of an offense listed in the bill within five years before the date of application. (The offenses in question would be grounds for revocation of a license, as described below.)

The Act requires an applicant for a private security guard or agency license, or an alarm system contractor license, to have experience in the business, and lists the types of experience that will qualify. These include at least three years of experience as an employee of an authorized private security guard or agency business or alarm system contractor business, as applicable. The bill would require at least four years of work experience.

#### Temporary Licensure

Under the bill, if a person had not previously been denied a license or had not had a previous license suspended or revoked, the Department of State Police could issue a nonrenewable temporary license to an applicant. The temporary license would be valid until one or more of the following occurred, but not more than 120 days:

- The completion of an investigation by the State Police and approvals of the prosecuting attorney and sheriff.
- The completion of the investigations concerning licensure criteria (e.g., education, experience, and criminal convictions).
- The completion of investigations of any employees of the licensee.
- Confirmation of compliance with the Act's bonding or insurance requirements.
- The applicant's failure to meet one or more requirements for licensure.

The fees for a temporary license would be the applicable fees for licensure.

#### Bond

The Act requires an applicant to furnish a \$5,000 bond if the applicant is a person, or a \$10,000 bond if a private security guard firm, company, partnership, or corporation or an alarm system contractor. The bill would increase the bond to \$25,000 for all applicants.

In lieu of a bond, an applicant may furnish an insurance policy in the amount of \$20,000 for property damage, \$100,000 for injury to or death of one person, and \$200,000 for injuries to or deaths of more than one person arising out of the operation of the licensed activity. The bill would increase the property damage amount to \$25,000.

#### License Revocation

The Department may revoke a license if it determines that the licensee or his or her manager (if the licensee is an individual), or any of its officers, directors, partners, or its manager (if the licensee is not an individual) has done any of the things listed in the Act. These include being convicted, while licensed or employed by a licensee, or having knowingly continued the employment of an individual convicted of a felony, a misdemeanor punishable by more than one year's imprisonment, or any crime involving moral turpitude; dishonesty or fraud; unauthorized divulging or selling of information or evidence; impersonation of a law enforcement officer or employee of the United States or any state or political subdivision of the United States; illegally using, carrying, or possessing a dangerous weapon; habitual drunkenness; using, selling, or possessing narcotics; or illegally using an excessive and unnecessary degree of force.

The bill provides, instead, that a license could be revoked if the licensee (or manager, officer, director, or partner) had been convicted, while licensed or employed by a licensee, of a felony or a misdemeanor involving any of the following:

- Dishonesty or fraud.
- Unauthorized divulging or selling of information or evidence.
- Impersonation of a law enforcement officer or employee of the United States, this State, or a political subdivision of this State.
- Illegally using, carrying, or possessing a dangerous weapon.
- Two or more alcohol-related offenses.
- Controlled substances under the Public Health Code.
- Assault.

#### Misdemeanor Penalty

Currently, some violations of the Act are misdemeanors, but the Act does not specify a penalty for them. The bill would prescribe a penalty of up to 93 days' imprisonment and/or a maximum fine of \$500 for the following misdemeanors with unspecified penalties:

- Failure to surrender a license and identification card within 48 hours of notification from the

Department of revocation.

- Falsely stating or representing that a person is or has been a licensed alarm system contractor or private security guard or agency or employed by an licensee.

Also, the Act makes it a misdemeanor for an unlicensed person to advertise his or her business as a private security guard or agency. The bill would prescribe a penalty of imprisonment for up to 93 days and/or a maximum fine of \$1,000.

Currently, a licensee, manager, or employee of a licensee who violates the Act is guilty of a misdemeanor, punishable by imprisonment for up to 90 days and/or a maximum fine of \$100. The bill would increase the maximum fine to \$1,000. The bill also states that this penalty would apply except as otherwise provided in the Act.

#### Employee Check

Under the Act, a licensee must request the Department to conduct a background check of each prospective employee based upon a name check. The bill also would require a licensee to obtain a complete and signed employment application for all individuals for whom a name check was requested and conducted. The application would have to be retained for at least one year.

The bill would make it a misdemeanor, punishable by imprisonment for up to 93 days and/or a maximum fine of \$1,000, for a licensee or employee of a licensee to use a name check or results of a name check for purposes other than prospective employment.

#### Patches and Badges

The Act provides that uniforms and insignia worn by a licensee or his or her employees must be approved by the Department, and requires shoulder identification patches to be worn on all uniform jackets, coats, and shirts. Shoulder patches or emblems must be at least two inches by three inches in size. Under the bill, shoulder patches or emblems would have to be at least three inches by five inches, half-moon shape, and red and white. Upon request, the Department could approve different colors for private security police. A patch would have to be worn on the right breast with the words "security guard" or "security technician", as appropriate.

The bill would prohibit a person from wearing or displaying a badge or shield unless he or she were on duty as an employee of a licensee or while going to and from his or her place of employment and his or her residence.

The bill also would make it a misdemeanor, punishable by imprisonment for up to 93 days and/or a maximum fine of \$500, for a person who was not employed as a security guard to display a badge or shield or wear a uniform of a security guard.

#### Other Provisions

The Act specifies that it does not prevent a licensed private detective or private investigator from performing the services of private security guard or agency, and that the license fee includes both services. A private security guard or agency may not perform the services of a private detective or private investigator without obtaining a detective license to do so. The bill would delete these provisions.

Under the bill, a person who failed to renew a license by the expiration date could not engage in activities regulated by the Act. Within 30 days after the expiration date, the person could renew the license by paying the required license fee and a \$25 late renewal fee. An applicant who failed to renew within the 30-day period would have to reapply for a license.

The bill would allow the Department to suspend a license if the licensee failed to comply with any of the Act's requirements. Unless a license had to be revoked for a violation of the Act, the Department would have to reinstate a suspended license upon the licensee's compliance with the Act and payment of a \$100 reinstatement fee.

Currently, a license fee may not be refunded without a showing of ineligibility due to failure to meet the Act's requirements, or a showing of mistake, inadvertence, or error in the collection of the fee. Under the bill, a license or application fee could not be refunded due to ineligibility.

MCL 338.1051 et al.

Legislative Analyst: S. Lowe

#### FISCAL IMPACT

The bill would result in an indeterminate, though relatively minor, fiscal impact on State and local government. To an indeterminate degree, the bill could increase license fee revenue to the Department of State Police due to the inclusion of the "bodyguard" industry and out-of-State individuals and agencies among those who are required to obtain a license from the State. The provisions for a \$100 license reinstatement fee, a \$25 late-renewal fee, and the elimination of license fee refunds also [S9900/s5917sa](#)

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would increase fee revenue to the Department.

Concerning the costs associated with the bill's provisions, additional administrative enforcement efforts would be required by the Department to cover the proposed added scope of regulation, including the regulation of the "body guard" industry and licensing of out-of-State individuals and agencies.

In addition, the bill would establish or increase penalties for a number of criminal offenses. There are no statewide data available to indicate how many offenders are convicted each year of engaging in the business practices regulated under the Act without a license or selling or providing a device that will automatically call a public service, utility, or police agency without permission. Therefore, the fiscal impact of changing these offenses from misdemeanors to felonies cannot be specifically determined. Assuming that two offenders a year would be convicted of these offenses and serve a minimum sentence of 32 months, given that the average annual cost of incarceration in a State facility is \$22,000, costs for the State could increase by \$117,000. Also, since there are no statewide data available on misdemeanor convictions, it is not possible to determine how many offenders are convicted each year for general violations of the Act, advertising an unlicensed business, or falsely representing oneself as licensed agent. These offenses, while remaining misdemeanors, would be given specific penalties.

Also, there are no data available to indicate how many offenders would be convicted of using the results of a name check for purposes other than prospective employment or wearing a security guard uniform or displaying a badge or shield while not on duty. Local units of government would incur the costs of incarceration or receive the fine revenues for these misdemeanors.

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