

Act No. 68
Public Acts of 2010
Approved by the Governor
May 13, 2010
Filed with the Secretary of State
May 13, 2010
EFFECTIVE DATE: May 13, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Reps. Womack and DeShazor

ENROLLED HOUSE BILL No. 5095

AN ACT to amend 1968 PA 330, entitled "An act to license and regulate private security guards, private security police, private security guard agencies and security alarm systems servicing, installing, operating, and monitoring; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by individuals engaged in private security activity or security alarm systems sales, installations, service, maintenance, and operations; to establish minimum qualifications for individuals as well as private agencies engaged in the security business and security alarm systems and operations; to impose certain fees; to create certain funds; and to prescribe the powers and duties of the departments of state police and consumer and industry services," by amending the title and sections 2, 3, 4, 7, 8, 9, 14, 17, 19, 25, and 29 (MCL 338.1052, 338.1053, 338.1054, 338.1057, 338.1058, 338.1059, 338.1064, 338.1067, 338.1069, 338.1075, and 338.1079), the title and sections 2, 3, 7, 14, 17, 19, and 29 as amended by 2002 PA 473, sections 4 and 8 as amended by 2000 PA 411, and sections 9 and 25 as amended by 2004 PA 270, and by adding sections 6a, 37, 38, 39, 40, 41, and 42.

The People of the State of Michigan enact:

TITLE

An act to license and regulate private security guards, private security police, private security guard agencies, private college security forces, and security alarm systems servicing, installing, operating, and monitoring; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by individuals engaged in private security activity or security alarm systems sales, installations, service, maintenance, and operations; to establish minimum qualifications for individuals as well as private agencies engaged in the security business and security alarm systems and operations; to impose certain fees; to create certain funds; and to prescribe certain powers and duties of certain private colleges and certain state departments, agencies, and officers.

Sec. 2. (1) As used in this act:

(a) "Commission" means the commission on law enforcement standards created under section 3 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.603.

(b) "Department" means the department of energy, labor, and economic growth except that in reference to the regulation of private security police and private college security forces, department means the department of state police.

(c) "Governing board" means a board of regents, board of trustees, board of governors, board of control, or other governing body of an institution of higher education.

(d) "Licensee" means a sole proprietorship, firm, company, partnership, limited liability company, or corporation licensed under this act.

(e) "Private college security force" means a security force created under section 37.

(f) "Private security guard" means an individual or an employee of an employer who offers, for hire, to provide protection of property on the premises of another, and includes an employee of a private college security force.

(g) "Private security police" means that part of a business organization or educational institution primarily responsible for the protection of property on the premises of the business organization, but does not include a private college security force.

(h) "Security alarm system" means a detection device or an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention or to which police are expected to respond. Security alarm system includes any system that can electronically cause an expected response by a law enforcement agency to a premises by means of the activation of an audible signal, visible signal, electronic notification, or video signal, or any combination of these signals, to a remote monitoring location on or off the premises. Security alarm system does not include a video signal that is not transmitted over a public communication system or a fire alarm system or an alarm system that monitors temperature, humidity, or other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises.

(i) "Security alarm system agent" means a person employed by a security alarm system contractor whose duties include the altering, installing, maintaining, moving, repairing, replacing, selling, servicing, monitoring, responding to, or causing others to respond to a security alarm system.

(j) "Security alarm system contractor" means a sole proprietorship, firm, company, partnership, limited liability company, or corporation engaged in the installation, maintenance, alteration, monitoring, or servicing of security alarm systems or who responds to a security alarm system. Security alarm system contractor does not include a business that only sells or manufactures security alarm systems unless the business services security alarm systems, installs security alarm systems, monitors or arranges for the monitoring of a security alarm system, or responds to security alarm systems at the protected premises.

(k) "Security business" means a person or business entity engaged in offering, arranging, or providing 1 or more of the following services:

(i) Security alarm system installation, service, maintenance, alteration, or monitoring.

(ii) Private security guard.

(iii) Private security police.

(2) All businesses furnishing security alarm systems for the protection of persons and property, whose employees and security technicians travel on public property and thoroughfares in the pursuit of their duties, are subject to this act.

(3) A communications common carrier providing communications channels under tariffs for the transmission of signals in connection with an alarm system is not subject to this act.

(4) Railroad policemen appointed and commissioned under the railroad code of 1993, 1993 PA 354, MCL 462.101 to 462.451, are exempt from this act.

Sec. 3. (1) Unless licensed under this act, a sole proprietorship, firm, company, partnership, limited liability company, or corporation shall not engage in the business of security alarm system contractor, private security guard, private security police, private college security force, patrol service, or an agency furnishing those services. A person, firm, company, partnership, limited liability company, or corporation shall not advertise its business to be that of security alarm system contractor, security alarm system agent, private security guard agency, or an agency furnishing those services without having first obtained from the department a license to do so for each office and branch office to be owned, conducted, managed, or maintained for the conduct of that business.

(2) A person shall not sell, install, operate, adjust, arrange for, or contract to provide a device which upon activation, either mechanically, electronically, or by any other means, 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.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$1,000.00, or both.

Sec. 4. The department may issue separate licenses to security alarm system contractors, private college security forces, private security police, and private security guard agencies. This section does not prevent a private detective or private investigator licensed under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851, from performing the services of a private security guard or private security police except that a private security guard or private security police may not perform the services of a private detective or private investigator without obtaining a private detective or private investigator license.

Sec. 6a. The department may issue a license to operate a private college security force to a private college or university, but shall not issue that license until the private college or university has demonstrated compliance with the requirements of sections 37 to 42.

Sec. 7. (1) The department shall prepare a uniform application for the particular license and shall require the person filing the application to obtain reference statements from at least 5 reputable citizens who have known the applicant for a period of at least 5 years, who can attest that the applicant is honest, of good character, and competent, and who are not related or connected to the applicant by blood or marriage.

(2) Upon receipt of the application and application fee, the department shall investigate the applicant's qualifications for licensure.

(3) Except for a private college security force, the application and investigation are not considered complete until the applicant has received the approval of the prosecuting attorney and the sheriff of the county in this state within which the principal office of the applicant is to be located. If the office is to be located in a city, township, or village, the approval of the chief of police may be obtained instead of the sheriff. Branch offices and branch managers shall be similarly approved.

(4) If a person has not previously been denied a license or has not had a previous license suspended or revoked, the department may issue a nonrenewable temporary license to an applicant. If approved by the department, the temporary license is valid until 1 or more of the following occur but not to exceed 120 days:

- (a) The completion of the investigations and approvals required under subsections (1), (2), and (3).
- (b) The completion of the investigation of the subject matter addressed in section 6.
- (c) The completion of the investigation of any employees of the licensee as further described in section 17.
- (d) Confirmation of compliance with the bonding or insurance requirements imposed in section 9.
- (e) The applicant fails to meet 1 or more of the requirements for licensure imposed under this act.
- (5) The fees for a temporary license shall be the applicable fees as described in section 9.
- (6) This section does not apply to a private college security force.

Sec. 8. (1) Each applicant shall sign and verify the application. Each application shall contain at least all of the following:

- (a) The name and principal address where the individual or business entity is located in this state.
- (b) The address and location of any branch office of the business.
- (c) The certificate of incorporation of the business, if applicable.

(2) Each applicant shall submit 2 passport quality photographs of the applicant with the application. If the applicant is a business entity, the resident manager of the business shall submit 2 passport quality photographs of himself or herself.

(3) This section does not apply to a private college security force.

Sec. 9. (1) The department, when satisfied of the good character, competence, and integrity of the applicant, or if the applicant is a firm, company, partnership, limited liability company, or corporation, of its individual members or officers, or, if the applicant is a private college or university, of its governing board, shall issue to the applicant a license. The issuance of the license is conditioned upon the applicant's paying to the department for each license \$200.00 if a sole proprietorship, or \$300.00 if a private security guard firm, company, partnership, limited liability company, or corporation, or \$500.00 if a security alarm system contractor; and upon the applicant's executing, delivering, and filing with the department a bond in the sum of \$25,000.00. The bond shall be conditioned upon the faithful and honest conduct of the business by the applicant and shall be approved by the department. In lieu of a bond, the applicant may furnish a policy of insurance issued by an insurer authorized to do business in this state naming the licensee and the state as coinsureds in the amount of \$25,000.00 for property damages, \$100,000.00 for injury to or death of 1 person, and \$200,000.00 for injuries to or deaths of more than 1 person arising out of the operation of the licensed activity. The license is valid for 2 years but is revocable at all times by the department for cause shown. The bonds shall be taken in the name of the people of the state and a person injured by the willful, malicious, and wrongful act of the licensee or any of his or her agents or employees may bring an action on the bond or insurance policy in his or her own name to recover damages suffered by reason of the wrongful act. The license certificate shall be in a form to be prescribed by the department.

(2) If a licensee desires to open a branch office, he or she may receive a license for that branch following approval as required in section 7 and payment to the department of an additional fee of \$50.00 for each private security guard branch office license and \$100.00 for each security alarm system contractor branch office license.

(3) The additional license issued under subsection (2) shall be posted in a conspicuous place in the branch office and shall expire on the same date as the initial license.

(4) Subject to subsection (5), if the license is denied, revoked, or suspended for cause, no refund shall be made of the license fees or a part of the license fees.

(5) Beginning July 23, 2004, the department shall issue an initial or renewal license not later than 180 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 180-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(6) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(7) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with occupational issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 180-day time period described in subsection (5).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 180-day time period and the amount of money returned to licensees and registrants under subsection (6).

(8) The fees collected by the department under this section shall be deposited into the security business fund created in subsection (9).

(9) The security business fund is created within the state treasury. The department shall deposit all license fees collected under this act into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and be available for appropriation and expenditure by the department in subsequent fiscal years. The money in the fund shall not lapse to the general fund. The department shall expend money from the fund, upon appropriation, only for enforcement and administration of this act.

(10) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

Sec. 14. (1) Upon issuing a license, the department shall issue an identification card to the principal license holder, and if the licensee is a partner in a partnership to each partner, and if the license holder is a corporation to each resident officer or manager but only if requested by a resident officer or manager.

(2) The form and contents of the identification card shall be prescribed by the department, and the card shall be recalled by the department if the license is revoked.

(3) Only 1 identification card shall be issued for each person entitled to receive it. The licensee is responsible for the maintenance, custody, and control of the identification card and shall not let, loan, sell, or otherwise permit unauthorized persons or employees to use it. This section does not prevent an agency from issuing its own identification cards to its employees if they are approved as to form and content by the department. The individual card shall not bear the seal of the state, and the employee shall be designated as either security alarm system agent, private security police officer, private college security force officer, security guard, or security technician.

(4) The department may suspend a license issued under this act if the licensee fails to comply with any of the requirements of this act. Unless a license is required to be revoked for a violation of this act, the department shall reinstate a suspended license upon the licensee complying with this act and the licensee paying a \$100.00 reinstatement fee.

(5) Upon proper application and for sufficient reasons shown, the department may issue duplicates of the original certificate of license or identification card.

Sec. 17. (1) A licensee may employ as many persons as he or she considers necessary to assist him or her in his or her work of security alarm system contractor, private security police, private college security force, or private security guard and in the conduct of his or her business, and at all times during the employment is accountable for the good conduct in the business of each person so employed.

(2) Employees in the employ of a licensee after March 28, 2001 shall meet the qualifications outlined in section 6(1)(c), (e), (j), and (k), be at least 18 years of age, and have had at least an eighth grade education or its equivalent. An employee in the employ of a licensee on or before March 28, 2001 shall meet the qualifications outlined in section 6(1)(d), (e), (j), and (k), be at least 18 years of age, and have had at least an eighth grade education or its equivalent. Employees hired by a licensee after June 21, 2002 shall meet the qualifications outlined in section 6(1)(c), (e), (j), and (k), be at least 18 years of age, and have at least a high school diploma, a GED, or its equivalent.

(3) A licensee shall keep and maintain in this state adequate and complete personnel information on all persons employed by him or her. A complete employee roster in a manner described by the department shall be filed with the department by each licensee on a quarterly basis. The rosters must be filed with the department by April 15, July 15, October 15, and January 15 for the preceding quarter. Failure to submit accurate rosters is cause for suspension of the license. A renewal application shall not be processed if the quarterly roster has not been received for each quarter of the preceding 2-year license period.

(4) If a licensee falsely states or represents that a person is or has been in his or her employ, the false statement or representation is sufficient cause for the revocation of the license.

(5) A person shall not falsely state or represent that he or she is an agent of a licensed security alarm system contractor, private security police officer, private college security force officer, or private security guard. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

Sec. 19. (1) The particular type of uniform and insignia worn by a licensee or his or her employees must be approved by the department and shall not deceive or confuse the public or be identical with that of a law enforcement officer of the federal government, state, or a political subdivision of the state in the community of the license holder. Shoulder identification patches shall be worn on all uniform jackets, coats, and shirts and shall include the name of the licensee or agency. Shoulder identification patches or emblems shall not be less than 3 inches by 5 inches in size.

(2) A badge or shield shall not be worn or carried by a security alarm system agent, private security police officer, private college security force officer, or an employee or licensee of a security alarm system contractor, private security police organization, private college security force, or private security guard agency, unless approved by the director of the department.

(3) A person who is not employed as a security guard shall not display a badge or shield or wear a uniform of a security guard. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(4) A person licensed as a security alarm system contractor, security alarm system agent, or a private security guard or agency is not authorized to carry a deadly weapon unless he or she is licensed to do so in accordance with the laws of this state.

(5) A licensee may authorize his or her employees to carry any commercially available tactical baton.

Sec. 25. (1) Subject to section 9(5), a license granted under this act may be renewed by the department upon application by the licensee, filing a renewal surety bond in the amount specified in section 9, and the payment of a renewal fee of \$100.00 if a sole proprietorship, \$150.00 if a private security police organization, a private college police force, or a private security guard firm, company, partnership, limited liability company, or corporation, or \$250.00 if a security alarm system contractor.

(2) A renewal license shall be dated as of the expiration date of the previously existing license. For the renewal of a license, the licensee shall submit an application in a form provided by the department. The department may defer the renewal of license if there is an uninvestigated outstanding criminal complaint pending against the licensee or a criminal case pending in any court against the licensee.

(3) A person who fails to renew a license on or before the expiration date shall not engage in activities regulated by this act. A person who fails to renew a license on or before the expiration date may, within 30 days after the expiration date, renew the license by payment of the required license fee and a late renewal fee of \$25.00. An applicant who fails to renew within the 30-day period must reapply for a license under section 7.

(4) The fees collected by the department under this section shall be deposited into the security business fund created in section 9(9).

Sec. 29. (1) The licensure of private security police and private college security forces shall be administered by the department of state police. The application, qualification, and enforcement provisions under this act apply to private

security police and private college security forces except that the administration of those provisions shall be performed by, and the payment of the appropriate fees shall be paid to, the department of state police. The director of the department may jointly promulgate rules with the department of state police under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to facilitate the bifurcation of authority described in this subsection.

(2) This act does not require licensing of any private security guards employed for the purpose of protecting the property and employees of their employer and generally maintaining security for their employer. However, any person, firm, limited liability company, business organization, educational institution, or corporation maintaining a private security police organization or a private college security force may voluntarily apply for licensure under this act. When a private security police employer or private college security force employer as described in this section provides the employee with a pistol for the purpose of protecting the property of the employer, the pistol shall be considered the property of the employer and the employer shall retain custody of the pistol, except during the actual working hours of the employee. All such private security people shall be subject to the provisions of sections 17(1) and 19(1).

Sec. 37. (1) This section and sections 38 to 42 apply only to private college security forces.

(2) Consistent with this act, a private college or university in this state that has students residing in college or university housing, through action of its governing board, may authorize a private college security force. The action of the governing board shall do all of the following:

(a) Authorize a private college security force.

(b) Authorize appointment of persons to be members of that private college security force.

(c) Authorize the assignment of duties, including the enforcement of college or university regulations.

(d) Prescribe the oath of office.

(e) Limit employment to those individuals who meet the requirements of subsections (4), (5), (6), and (7) and section 40.

(3) A person appointed under subsection (2) shall be known and designated as a private college security officer and is fully empowered under this act as a private college security officer upon being appointed by a private college or university licensed under this act.

(4) Except as provided in subsection (7), private college security officers must meet the selection qualifications prescribed in R 28.14203, R 28.14204, and R 28.14209 of the Michigan administrative code, and must meet the standards and requirements applicable to at least 1 category of recruits as set forth in R 28.14313 (military preservice recruits), R 28.14314 (basic recruits), R 28.14315 (preservice recruits and preservice college recruits), R 28.14316 (preservice college recruits), and R 28.14317 (agency basic recruits) of the Michigan administrative code, as promulgated by the commission.

(5) Private college security forces are subject to the provisions of R 28.14318, R 28.14319, and R 28.14320 of the Michigan administrative code, as promulgated by the commission.

(6) Except as provided in subsection (7), private college security officers may participate in the recognition of prior basic law enforcement training and experience program as prescribed in R 28.14401, R 28.14402, R 28.14403, R 28.14404, R 28.14405, R 28.14406, R 28.14407, R 28.14408, R 28.14409, R 28.14410, R 28.14413, and R 28.14414 of the Michigan administrative code, as promulgated by the commission.

(7) Subsections (4), (5), and (6) do not apply to an individual who meets all of the following requirements:

(a) He or she is employed as a security officer by a private college or university on the effective date of this act.

(b) He or she is certified as a law enforcement officer by the commission on the effective date of this act or was previously certified as a law enforcement officer by the commission while employed by the private college or university as a law enforcement officer but that certification became void during that period of employment.

(c) The private college or university authorizes the creation of a private college security force under this act.

(8) Investigations conducted to determine if a candidate for appointment as a private college security officer meets the selection qualifications, standards, and requirements in subsection (4) are governed by R 28.14601, R 28.14602, R 28.14603, R 28.14604, R 28.14606, R 28.14608, and R 28.14609 of the Michigan administrative code, as promulgated by the commission. This section shall not be interpreted to require the commission to conduct the investigation or review of an applicant for employment as a private college security officer.

(9) The governing board of a private college or university that creates a private college security force under this section may be subject to a fee payable to the commission under section 10(2) of the commission on law enforcement standards act, 1965 PA 203, MCL 28.610.

Sec. 38. The governing board of a private college or university shall not create a private college security force under section 37 unless, before that security force is created, the governing board obtains the approval of the prosecuting attorney and the sheriff of each county within which the private college or university owns, maintains, or controls property. If the property of the private college or university is located entirely within 1 city, the governing board also

shall obtain the approval of the chief of police of that city. If the property of the private college or university is not located entirely within 1 city, the governing board also shall obtain the approval of the chief of police of each city within which the private college or university owns, maintains, or controls property. Before granting approval, the prosecuting attorney, the sheriff, and the chief of police, as required, shall make a determination that the proposed private college security force is needed to assure adequate public safety on the property of the private college or university. Any of the persons whose approval is required under this section may rescind that approval at any time after his or her approval was granted, in which case the private college security force is no longer authorized and shall cease to operate.

Sec. 39. Upon being appointed under section 37 by a private college or university licensed under this act, private college security officers have the power to make arrests as provided in section 30. That power may be exercised only on property owned or leased by the private college or university wherever situated. Private college security officers are not certified as law enforcement officers under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

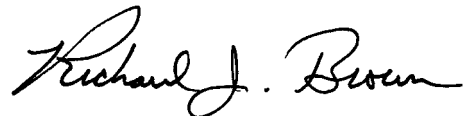
Sec. 40. The governing board of a private college or university shall not grant powers and authority to the private college security officers of the private college or university unless, before those powers and authority are granted, the governing board establishes a private college security force oversight committee. The committee shall be composed of the sheriff and the prosecuting attorney of the county in which the private college or university is located, the chief of police if the private college or university is located in a municipality that has a police force, and 6 individuals appointed by the administration of the private college or university. The committee shall receive and address grievances by persons against the private college security officers or the private college security force of the private college or university. The committee may recommend to the governing board that disciplinary measures be taken by the private college or university against a private college security officer who is found responsible for misconduct in office.

Sec. 41. Members of the private college security force at a private college or university are not eligible to participate in any state, county, or municipal retirement system and shall not be reimbursed for training with state funds. The uniforms, vehicles, and badges of private college security officers shall be distinctive from those of the local law enforcement agency where the private college or university is located.

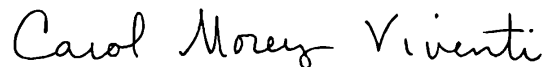
Sec. 42. The governing board of a private college or university that creates a private college security force shall provide liability insurance coverage for each member of the private college security force without cost to the member, which will insure the member against any liability arising out of or in the course of the member's employment for not less than \$250,000.00 of coverage, unless that indemnification is provided by a program of self-insurance.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5094 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: House Bill No. 5094, referred to in enacting section 1, was filed with the Secretary of State May 13, 2010, and became 2010 PA 67, Imd. Eff. May 13, 2010.