

ENROLLED HOUSE
BILL NO. 1158

By: Apple of the House

and

Lawler of the Senate

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 1750.5, 1750.6 and 1750.7, which relate to the Oklahoma Security Guard and Private Investigator Act; modifying certain general liability insurance requirements; providing for the reinstatement of certain suspended license under certain conditions; authorizing certain reinstatement; authorizing and specifying certain fees; specifying deposit of certain penalties and fines; authorizing disciplinary penalties and fines; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1750.5, is amended to read as follows:

Section 1750.5 A. Licenses authorized to be issued by the Council on Law Enforcement Education and Training shall be as follows:

1. Security Agency License;
2. Investigative Agency License;
3. Private Investigator License (unarmed);
4. Security Guard License (unarmed);
5. Armed Security Guard License; and
6. Special Event License (unarmed).

B. Any qualified applicant meeting the requirements for more than one of the positions of private investigator, security guard, or armed security guard may be issued a separate license for each position for which he qualifies, or in the discretion of the Council, a combination license provided the required license fees are paid.

C. A private investigator may carry a firearm, if said private investigator also performs the functions of an armed security guard, under the authority of the armed security guard license; or if said private investigator performs no functions of an armed security guard, the Council may add an endorsement to the license of the private investigator that states "Firearms Authorized", in lieu of the armed security guard license, provided the private investigator completes the same training and testing requirements of the armed security guard. The Council will charge the same fee for the "Firearms Authorized" endorsement on the private investigators license as the cost of the armed security guard license.

D. Any identification card issued to a person meeting the license requirements for an armed security guard shall be distinct and shall explicitly state that the person is authorized to carry a firearm pursuant to the provisions of this act, Section 1750.1 et

seq. of this title. Upon receipt of the license and identification card, such armed security guard is authorized to carry a firearm in the performance of his duties subject to the provisions of this act and the rules and regulations prescribed by the Council.

E. The Council may issue a conditional license to a person employed by a security or investigative agency as a trainee for a security guard, armed security guard or private investigator position, when such person has submitted a properly completed application, made under oath, subject to the following conditions:

1. A conditional license shall authorize such employees to perform the same functions that regular licensees perform, but subject to supervision by the employing agency as the Council may prescribe;

2. The holder of such conditional license shall complete the necessary training requirements within one hundred eighty (180) days from the effective date of the conditional license, after which the conditional license shall expire;

3. The holder of a conditional license as an armed security guard shall not carry a firearm in the performance of his duties until he has completed a course of firearms training as prescribed by the Council, and has been issued a regular license by the Council;

4. A conditional license may be renewed at the discretion of the Council, if necessary to allow an applicant to complete any training required for a regular license; and

5. When the Council finds that a conditional license holder has completed the required training and is otherwise qualified for a license pursuant to the provisions of Section 1750.1 et seq. of this title, the Council shall issue such person a regular license.

F. A Security Agency License may be issued to an individual, corporation or other legal entity meeting the following qualifications:

1. If the license is to be issued in the name of a legal entity other than a natural person, the applicant must furnish proof that the entity is legally recognized, such as the issuance of a corporate charter; and

2. The executive officer, manager, or other person in charge of supervising security guards in the performance of their duties shall be a licensed security guard.

G. An Investigative Agency License may be issued to an individual, corporation or other legal entity meeting the following qualifications:

1. If the license is to be issued in the name of a legal entity other than a natural person, the applicant must furnish proof that the entity is legally recognized, such as the issuance of a corporate charter;

2. Any person, otherwise qualified, may own a private investigation agency, provided, that a self-employed private investigator, or the executive officer, manager, or other person in charge of supervising private investigators in the performance of their duties shall be a licensed private investigator with a minimum of one (1) year of experience as a private investigator, private investigator supervisor, or law enforcement officer, within the past five (5) years immediately preceding the application; and

3. A self-employed private investigator who employs no other investigators shall also be licensed as an investigative agency, but shall only be required to be insured or bonded as a self-employed private investigator.

H. A Security Guard License, Armed Security Guard License, Private Investigator License, or combination thereof may be issued

to an applicant meeting the following qualifications. The applicant shall:

1. Be a citizen of the United States or an alien legally residing in the United States;
2. Be at least eighteen (18) years of age, except that an applicant for an Armed Security Guard License shall be at least twenty-one (21) years of age;
3. Have successfully completed training requirements for the license applied for, as prescribed by the Council;
4. Be of good moral character;
5. Not have a record of a felony conviction;
6. Not have a record of conviction for larceny, theft, false pretense, fraud, embezzlement, false personation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or sale of a controlled dangerous substance, any offense involving a firearm, or any other offense as prescribed by the Council.

Provided however, if any conviction which disqualifies an applicant occurred more than five (5) years prior to the application date and the Council is convinced the offense constituted an isolated incident and the applicant has been rehabilitated, the Council may, in its discretion, waive the conviction disqualification as provided for in this section and issue an unarmed security guard license or a private investigator's license, but shall not issue an armed guard license, to the applicant if the applicant is otherwise qualified unless said felony involved the use of a firearm or was violent in nature; ~~and.~~

~~7.~~ If an Oklahoma State Bureau of Investigation records check and a local records check reveal that there are no felony convictions, criminal convictions involving moral turpitude, or any other disqualifying convictions as specified in the Oklahoma Security Guard and Private Investigator Act or prescribed by the Council, then the Council may conditionally issue an armed security guard license pending completion of the criminal history and background check. Further, under oath, the applicant shall certify that he has no disqualifying convictions as specified in the Oklahoma Security Guard and Private Investigator Act or by the Council. The applicant shall further meet all other qualifications. If upon completion of the required background investigation it is discovered that a disqualifying conviction exists, the Council shall immediately revoke the armed guard license of the applicant.

I. A special event license may be issued to an employee of a security agency who is hired on a temporary basis as an unarmed security guard for a particular event. An application for a special event license shall be made by the agency so employing the applicant. Said agency shall certify to the Council that the applicant meets the qualifications for security guards, pursuant to subsection H of this section.

J. 1. Effective on and after July 1, 1988, all persons and agencies newly licensed pursuant to Section 1750.1 et seq. of this title, or who renew an existing license, shall obtain and maintain liability coverage in accordance with the following minimum standards:

- ~~1.~~ a. ~~General~~ general liability insurance coverage for bodily injury, personal injury and property damage, with endorsements for personal injury including false arrest, libel, slander and invasion of privacy, ~~and endorsements for damage to property in their care, custody or control;~~ or

~~2.~~ b. A a surety bond that allows persons to recover for actionable injuries, loss or damage as a result of the willful, or wrongful acts or omissions of the principal and protects this state, its agents, officers and employees from judgments against the principal or insured licensee, and is further conditioned upon the faithful and honest conduct of the principal's business;~~and.~~

~~3.~~ 2. Liability coverages and bonds outlined in this section shall be in the minimum amounts of One Hundred Thousand Dollars (\$100,000.00) for agencies, Ten Thousand Dollars (\$10,000.00) for armed security guards and Five Thousand Dollars (\$5,000.00) for security guards and self-employed private investigators who employ no other investigators;~~and.~~

~~4.~~ 3. Security agencies and investigative agencies shall ensure that all employees of said agencies have met the minimum liability coverages as prescribed in this section;~~and.~~

~~5.~~ 4. Insurance policies and bonds issued pursuant to this section shall not be modified or canceled unless ten (10) days' prior written notice is given to the Council. All persons and agencies insured or bonded pursuant to this section shall be insured or bonded by an insurance carrier or a surety company licensed in the state in which the insurance or bond was purchased, or in this state;~~and.~~

~~6.~~ 5. In lieu of the requirements of this subsection, the Council may accept a written statement from a corporation which is registered with the Oklahoma Secretary of State attesting that the corporation self-insures the general operation of business for the types of liability set out in paragraphs 1 and 2 of this subsection.

K. Upon written notice, any license may be placed on inactive status.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1750.6, is amended to read as follows:

Section 1750.6 A. Application for a license shall be made on forms provided by the Council on Law Enforcement Education and Training and shall be submitted in writing by the applicant under oath. The application shall require the furnishing of information reasonably required by the Council to implement the provisions of the Oklahoma Security Guard and Private Investigator Act, Section 1750.1 et seq. of this title, including classifiable fingerprints to enable the search of criminal indices for evidence of a prior criminal record.

Upon request of the Council, the Oklahoma State Bureau of Investigation and other state and local law enforcement agencies shall furnish a copy of any existent criminal history data relating to an applicant, including investigation reports which are otherwise required by law to be deemed confidential, to enable the Council to determine the qualifications and fitness of such applicant for a license.

B. The original application and any license renewal shall be accompanied by a nonrefundable fee of Sixty Dollars (\$60.00) for the original application and Twenty-five Dollars (\$25.00) for the renewal of a private investigator or an unarmed security guard, Eighty-five Dollars (\$85.00) for the original application and Fifty Dollars (\$50.00) for the renewal of an armed security guard, Seven Dollars (\$7.00) for a special event, and Two Hundred Dollars (\$200.00) for either the original application or the renewal for a security agency or investigative agency.

A licensee whose license has been suspended may apply for reinstatement of license after the term of the suspension has

passed. Any application for reinstatement following a suspension of licensure shall be accompanied by a nonrefundable fee of Twenty-five Dollars (\$25.00) for the reinstatement of a private investigator or unarmed security guard, Fifty Dollars (\$50.00) for the reinstatement of an armed security guard, and Two Hundred Dollars (\$200.00) for reinstatement of a security or investigative agency.

A licensee who fails to file a renewal application on or before the expiration of a license shall pay a late fee of Twenty-five Dollars (\$25.00) for an individual license and a late fee of One Hundred Dollars (\$100.00) for an agency license.

Except as otherwise provided for in this subsection, said fees, penalties and fines shall be deposited in the General Revenue Fund. Thirty-five Dollars (\$35.00) of the fee for the original application for a private investigator, an unarmed security guard or an armed security guard shall be deposited in the OSBI Revolving Fund.

C. A Security Guard License, Armed Security Guard License, or Private Investigator License shall be valid for a period of two (2) years and may be renewed for additional two-year terms. A Security Agency License or Investigative Agency License shall be valid for a period of five (5) years and may be renewed for additional five-year terms. A special event license shall be valid only for the duration of the event for which it is expressly issued. Any individual may be issued up to two special event licenses during any calendar year.

D. The Council shall devise a system for issuance of licenses, such system to be operational through July 1989, for the purpose of evenly distributing the expiration dates of such licenses. Licenses issued during this period shall be for a period of one (1) year or for a period of two (2) years, at the discretion of the Council.

E. Pursuant to its rules and regulations, the Council may issue a duplicate license to a person licensed pursuant to the provisions of the Oklahoma Security Guard and Private Investigator Act. The Council may assess a fee of Four Dollars (\$4.00) for the issuance of a duplicate license. Said fee must accompany the request for a duplicate license.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1750.7, is amended to read as follows:

Section 1750.7 A. A Security Guard License, Armed Security Guard License, Private Investigator License, and any conditional license shall be subject to denial, suspension, or revocation and/or disciplinary penalty or fine by the Council on Law Enforcement Education and Training subject to the Administrative Procedures Act for, but not limited to, the following reasons by a preponderance of the evidence:

1. Any erroneous or false statement in an application for a license submitted pursuant to this act;
2. Failure to successfully complete any prescribed course of training as required by the Council;
3. Violation of a provision of the Oklahoma Security Guard and Private Investigator Act or a regulation promulgated pursuant to this act;
4. A conviction for larceny, theft, embezzlement, false pretense, fraud, an offense involving moral turpitude, any nonconsensual sex offense, any offense involving a minor as a victim, any offense involving the possession, use, distribution or sale of a controlled dangerous substance, any offense involving a firearm, or a felony;
5. Use of beverages containing alcohol while armed with a firearm;
6. Knowingly impersonating a law enforcement officer; or

7. Failure to obtain or maintain liability insurance coverage or a surety bond pursuant to subsection J of Section 1750.5 of this title.

B. A Security Agency License or Investigative Agency License shall be subject to denial, suspension, or revocation and/or disciplinary penalty or fine by the Council subject to the Administrative Procedures Act for, but not limited to, the following reasons by a preponderance of the evidence:

1. A false statement in a license application;

2. Violation of any provision of this act or a regulation adopted pursuant thereto;

3. Employing, authorizing, or permitting an unlicensed, uninsured or unbonded person to perform a security guard, armed security guard or private investigator function;

4. Permitting a person to perform a security guard, armed security guard or private investigator function, knowing such person has committed any offense enumerated in subsection A of this section.

C. Upon the effective date of suspension or revocation of any license, the licensee shall have the duty to surrender the license and any identification card issued pursuant thereto to the Council.

SECTION 4. This act shall become effective July 1, 1993.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 3rd day of March, 1993.

Speaker of the House of
Representatives

Passed the Senate the 7th day of April, 1993.

President of the Senate