

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1862

By: Easley

AS INTRODUCED

An Act relating to intoxicating liquor and professions and occupations; amending 37 O.S. 2001, Section 521, as last amended by Section 2, Chapter 173, O.S.L. 2005 (37 O.S. Supp. Section 521) and 59 O.S. 2001, Sections 1750.2, 1750.3, 1750.4, 1750.5, and 1750.9, which relate to the Oklahoma Alcoholic Beverage Control Act and to the Oklahoma Security Guard and Private Investigator Act; modifying acts authorized by certain license issued by ABLE relating to a bouncer; adding and modifying definitions; modifying powers and duties of Council on Law Enforcement Education and Training related to bouncers; requiring certain licenses; providing for applicant qualifications for certain licenses; clarifying cite; requiring certain identification card to be carried and displayed under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 37 O.S. 2001, Section 521, as last amended by Section 2, Chapter 173, O.S.L. 2005 (37 O.S. Supp. 2005, Section 521), is amended to read as follows:

Section 521. A. A brewer license shall authorize the holder thereof: To manufacture, bottle, package, and store beer on licensed premises; to sell beer in this state to holders of Class B wholesaler licenses and retail licenses and to sell beer out of this state to qualified persons.

B. A distiller license shall authorize the holder thereof: To manufacture, bottle, package, and store spirits on licensed premises; to sell spirits in this state to licensed wholesalers and manufacturers only; to sell spirits out of this state to qualified persons; to purchase from licensed distillers and rectifiers in this

state, and import spirits from without this state for manufacturing purposes in accordance with federal laws and regulations.

C. A winemaker license shall authorize the holder thereof: To manufacture (including such mixing, blending and cellar treatment as authorized by federal law), bottle, package, and store on licensed premises wine containing not more than twenty-four percent (24%) alcohol by volume, provided the bottle or package sizes authorized shall be limited to the capacities approved by the United States Bureau of Alcohol, Tobacco and Firearms; to sell wine in this state to licensed wholesalers and manufacturers, provided, an Oklahoma winemaker may sell and ship wine produced at a winery in this state directly to retail package stores and restaurants in this state; to sell bottles of wine produced at the winery from grapes and other fruits and berries grown in this state, if available, to consumers on the premises of the winery; to serve visitors on the licensed premises samples of wine produced on the premises; to serve samples of wine produced at the winery at festivals and trade shows; to sell wine produced at the winery, in original sealed containers, at festivals and trade shows; to sell wine out of this state to qualified persons; to purchase from licensed winemakers, distillers and rectifiers in this state, and to import into this state wine, brandy and fruit spirits for use in manufacturing in accordance with federal laws and regulations.

D. A rectifier license shall authorize the holder thereof: To rectify spirits and wines, bottle, package, and store same on the licensed premises; to sell spirits and wines in this state to licensed wholesalers and manufacturers only; to sell spirits and wines out of this state to qualified persons; to purchase from licensed manufacturers in this state; and to import into this state for manufacturing purposes spirits and wines in accordance with federal laws and regulations.

E. A wholesaler license shall authorize the holder thereof: To purchase and import into this state spirits and wines from persons authorized to sell same who are the holders of a nonresident seller license, and their agents who are the holders of manufacturers agent licenses; to purchase spirits and wines from licensed distillers, rectifiers, winemakers and wholesalers in this state; to sell spirits and wines in retail containers in this state to retailers, mixed beverage, caterer, special event, hotel beverage or airline/railroad beverage licensees; to sell spirits and wines to wholesalers authorized to sell same; and to sell spirits and wines out of this state to qualified persons. Provided, however, sales of spirits and wine in containers with a capacity of less than one-twentieth (1/20) gallon by a holder of a wholesaler license shall be in full case lots and in the original unbroken case. Wholesalers shall be authorized to place such signs outside their place of business as are required by Acts of Congress and by such laws and regulations promulgated under such Acts.

A wholesaler license shall authorize the holder thereof to operate a single bonded warehouse with a single central office together with delivery facilities at a location in this state only at the principal place of business for which the wholesaler license was granted.

F. A Class B wholesaler license shall authorize the holder thereof: To purchase and import into this state beer from persons authorized to sell same who are the holders of nonresident seller licenses, and their agents who are the holders of manufacturers agent licenses; to purchase beer from licensed brewers and Class B wholesalers in this state; to sell in retail containers to retailers, mixed beverage, caterer, special event, hotel beverage and airline/railroad beverage licensees in this state, beer which has been unloaded and stored at the holder's self-owned or leased and self-operated warehouse facilities for a period of at least

twenty-four (24) hours before such sale; and to sell beer in this state to Class B wholesalers and out of this state to qualified persons, including federal instrumentalities and voluntary associations of military personnel on federal enclaves in this state over which this state has ceded jurisdiction.

G. A package store license shall authorize the holder thereof: To purchase alcohol, spirits, beer and wine in retail containers from the holder of a brewer, wholesaler or Class B wholesaler license and to purchase wine produced at a winery in this state from an Oklahoma winemaker and to sell same on the licensed premises in such containers to consumers for off-premises consumption only and not for resale; provided, wine may be sold to charitable organizations that are holders of charitable auction or charitable wine event licenses. All alcoholic beverages that are sold by a package store are to be sold at ordinary room temperature.

H. A mixed beverage license shall authorize the holder thereof: To purchase alcohol, spirits, beer or wine in retail containers from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess mixed beverages for on-premises consumption only; provided, the holder of a mixed beverage license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

Sales and service of mixed beverages by holders of mixed beverage licenses shall be limited to the licensed premises of the licensee unless the holder of the mixed beverage license also obtains a caterer license or a mixed beverage/caterer combination license. A mixed beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No

mixed beverage license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title.

I. A bottle club license shall authorize the holder thereof: To store, possess and mix alcoholic beverages belonging to members of the club and to serve such alcoholic beverages for on-premises consumption to club members. A bottle club license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized. A separate license shall be required for each place of business.

J. A caterer license shall authorize the holder thereof: To sell mixed beverages for on-premises consumption incidental to the sale or distribution of food at particular functions, occasions, or events which are temporary in nature. A caterer license shall not be issued in lieu of a mixed beverage license. A caterer license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

K. 1. An annual special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to four events to be held over a period not to exceed one (1) year, not to exceed two such events in any three-month period. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. An annual special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of an annual special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

2. A quarterly special event license shall authorize the holder thereof: To sell and distribute mixed beverages for consumption on the premises for which the license has been issued for up to three events to be held over a period not to exceed three (3) months. For purposes of this paragraph, an event shall not exceed a period of ten (10) consecutive days. A quarterly special event license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. The holder of a quarterly special event license shall provide written notice to the ABLE Commission of each special event not less than ten (10) days before the event is held.

L. A hotel beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine, and 12-ounce malt beverage containers which are distributed from a hotel room mini-bar. A hotel beverage license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A hotel beverage license shall only be issued to a hotel or motel as defined by Section 506 of this title which is also the holder of a mixed beverage license. Provided, that application may be made simultaneously for both such licenses. A separate license shall be required for each place of business.

M. An airline/railroad beverage license shall authorize the holder thereof: To sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane or railroad operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state, even though the airplane or train, in the course of its travel, may cross an area in which the sale of alcoholic beverages by the individual drink is not authorized and to store alcoholic beverages in sealed containers of any size at any airport or station regularly served by

the licensee, in accordance with rules promulgated by the Alcoholic Beverage Laws Enforcement Commission. Alcoholic beverages purchased by the holder of an airline/railroad license from the holder of a wholesaler license shall be presumed to be purchased for consumption outside the State of Oklahoma or in interstate commerce, and shall be exempt from the excise tax provided for in Section 553 of this title.

N. An agent license shall authorize the holder thereof: To represent only the holders of licenses within this state, other than retailers, authorized to sell alcoholic beverages to retail dealers in Oklahoma, and to solicit and to take orders for the purchase of alcoholic beverages from retailers including licensees authorized to sell alcoholic beverages by the individual drink for on-premises consumption. Such license shall be issued only to agents and employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, Section 502 et seq. of this title but no such license shall be required of an employee making sales of alcoholic beverages on licensed premises of the employee's principal. No person holding an agent license shall be entitled to a manufacturers agent license.

O. An employee license shall authorize the holder thereof: To work in a package store, mixed beverage establishment, bottle club, or any establishment where alcohol or alcoholic beverages are sold, mixed, or served. Persons employed by a mixed beverage licensee or a bottle club who do not participate in the service, mixing, or sale of mixed beverages shall not be required to have an employee license. Provided, however, that anyone employed as a bouncer in a mixed beverage establishment, bottle club or any establishment where alcohol or alcoholic beverages are sold, mixed or served, shall be required to have an employee license, and notwithstanding any other requirements of the ABLE Commission, be licensed as a security guard pursuant to the Oklahoma Security Guard and Private

Investigator Act. A manager employed by a mixed beverage licensee or a bottle club shall be required to have an employee license whether or not the manager participates in the service, mixing or sale of mixed beverages. Applicants for an employee license must have a health card issued by the county in which they are employed, if the county issues such a card. Employees of special event, caterer or airline/railroad beverage licensees shall not be required to obtain an employee license. Persons employed by a hotel licensee who participate in the stocking of hotel room mini-bars or in the handling of alcoholic beverages to be placed in such devices shall be required to have an employee license.

P. An industrial license may be issued to persons desiring to import, transport, and use alcohol for the following purposes:

1. Manufacture of patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
2. Manufacture of extracts, syrups, condiments, and food products; and
3. For use in scientific, chemical, mechanical, industrial, and medicinal products and purposes.

No other provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol intended for industrial, medical, mechanical, or scientific use.

Any person receiving alcohol under authority of an industrial license who shall use, permit, or cause same to be used for purposes other than authorized purposes specified above, and all such alcohol, shall be liable to all provisions of the Oklahoma Alcoholic Beverage Control Act, including payment of tax thereon.

No provisions of the Oklahoma Alcoholic Beverage Control Act shall apply to alcohol withdrawn by any person free of federal tax under a tax-free permit issued by the United States government, if such alcohol is received, stored, and used as authorized by federal laws.

Q. A carrier license may be issued to any common carrier operating under a certificate of convenience and necessity issued by any duly authorized federal or state regulatory agency. Such license shall authorize the holder thereof to transport alcoholic beverages into, within, and out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations.

R. A private carrier license may be issued to any carrier other than a common carrier described in subsection P of this section. Such license shall authorize the holder thereof to transport alcoholic beverages into, within, or out of this state under such terms, conditions, limitations, and restrictions as the ABLE Commission may prescribe by order issuing such license and by regulations. No carrier license or private carrier license shall be required of licensed brewers, distillers, winemakers, rectifiers, wholesalers, or Class B wholesalers, to transport alcoholic beverages from the place of purchase or acquisition to the licensed premises of such licensees and from such licensed premises to the licensed premises of the purchaser in vehicles owned or leased by such licensee when such transportation is for a lawful purpose and not for hire.

No carrier license or private carrier license shall be required of the holder of a package store, mixed beverage, caterer, special event, hotel beverage or airline/railroad license to pick up alcoholic beverage orders from the licensees' wholesaler or Class B wholesaler from whom they are purchased, and to transport such alcoholic beverages from the place of purchase or acquisition to the licensed premise of such licensees in vehicles owned or under the control of such licensee or a licensed employee of such licensee under such terms, conditions, limitations and restrictions as the ABLE Commission may prescribe.

S. A bonded warehouse license shall authorize the holder thereof: To receive and store alcoholic beverages for the holders of storage licenses on the licensed premises of the bonded warehouse licensee. No goods, wares or merchandise other than alcoholic beverages may be stored in the same bonded warehouse with alcoholic beverages. The holder of a bonded warehouse license shall furnish and file with the ABLE Commission a bond running to all bailers of alcoholic beverages under proper storage licenses and their assignees (including mortgagees or other bona fide lienholders) conditioned upon faithful performance of the terms and conditions of such bailments.

T. A storage license may be issued to a holder of a brewer, distiller, winemaker, rectifier, wholesaler, Class B wholesaler, nonresident seller, package store, mixed beverage, caterer, or hotel beverage license, and shall authorize the holder thereof: To store alcoholic beverages in a public warehouse holding a bonded warehouse license, and no goods, wares or merchandise other than alcoholic beverages may be stored in the same warehouse with alcoholic beverages in private warehouses owned or leased and operated by such licensees elsewhere than on their licensed premises. Provided:

1. A storage license issued to a Class B wholesaler shall permit the storage of light beer and permit the sale and delivery to retailers from the premises covered by such license;

2. Any licensee who is the holder of a mixed beverage/caterer combination license or the holder of a mixed beverage license and a hotel beverage license who is issued a storage license shall store all inventories of alcoholic beverages either on the premises of the mixed beverage establishment or in the warehouse;

3. A storage license shall not be required for a special event licensee storing alcoholic beverages for use at a subsequent event;

and

4. Notwithstanding the provisions of subsection H of this section or any other provision of this title, a licensee who wholly owns more than one licensed mixed beverage establishment may store alcoholic beverages for each of the licensed establishments in one location under one storage license. Alcoholic beverages purchased and stored pursuant to the provisions of a storage license, for one licensed mixed beverage establishment may be transferred by a licensee to another licensed mixed beverage establishment which is wholly owned by the same licensee. Notice of such a transfer shall be given in writing to the Oklahoma Tax Commission and the ABLE Commission within three (3) business days of the transfer. The notice shall clearly show the quantity, brand and size of every transferred bottle or case.

U. A sacramental wine supplier license shall authorize the holder thereof: To sell, ship or deliver sacramental wine to any religious corporation or society of this state holding a valid exemption from taxation issued pursuant to Section 501(a) of the Internal Revenue Code, 1986, and listed as an exempt organization in Section 501(c)(3) of the Internal Revenue Code, 1986, of the United States, as amended.

V. A beer and wine license shall authorize the holder thereof: To purchase beer and wine in retail containers from the holder of a wholesaler or Class B wholesaler license or as specifically provided by law and to sell, offer for sale and possess beer and wine for on-premises consumption only; provided, the holder of a beer and wine license issued for an establishment which is also a restaurant may purchase wine produced at wineries in this state directly from an Oklahoma winemaker as provided in Section 3 of Article XXVIII of the Oklahoma Constitution.

Sales and service of beer and wine by holders of beer and wine licenses shall be limited to the licensed premises of the licensee unless the holder of the beer and wine license also obtains a

caterer license. A beer and wine license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business. No beer and wine license shall be issued for any place of business functioning as a motion picture theater, as defined by Section 506 of this title. No spirits shall be stored, possessed or consumed on the licensed premises of a beer and wine licensee.

W. A charitable auction or charitable wine event license may be issued to a charitable organization exempt from taxation under Section 501(c)(3), (4), (5), (7), (8), (9), (10), or (19) of the United States Internal Revenue Code. The charitable wine event license shall authorize the holder thereof to conduct a wine event which may consist of one or more of a wine tasting event, a wine dinner event or a wine auction. A charitable wine event shall be conducted solely to raise funds for charitable purposes. Wine used in or served at a charitable wine event may be purchased by the charitable organization or donated by any person or entity. The charitable wine event license shall be issued for a period not exceeding four (4) days. Only one such license may be issued to an organization in any twelve-month period. The charitable organization holding a charitable wine event license shall not be required to obtain a special event license. The charitable auction license shall authorize the holder thereof to auction wine purchased from a retail package store or received as a gift from an individual if the auction is conducted to raise funds for charitable purposes. The charitable auction license shall be issued for a period not to exceed two (2) days. Only one such license shall be issued to an organization in any twelve-month period. The maximum amount of wine auctioned pursuant to the charitable auction license shall not exceed fifty (50) gallons. All wines auctioned pursuant to the charitable auction license shall be registered and all fees and

taxes shall be paid in accordance with the Oklahoma Alcoholic Beverage Control Act. The auction may be either a live auction conducted by an auctioneer or a silent auction for which bid sheets are accepted from interested bidders.

X. A mixed beverage/caterer combination license shall authorize the holder thereof: To purchase or sell mixed beverages as specifically provided by law for the holder of a mixed beverage license or a caterer license. All provisions of the Oklahoma Alcoholic Beverage Control Act applicable to mixed beverage licenses or caterer licenses, or the holders thereof, shall also be applicable to mixed beverage/caterer combination licenses or the holders thereof, except where specifically otherwise provided. A mixed beverage/caterer combination license shall only be issued in counties of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has been authorized. A separate license shall be required for each place of business.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 1750.2, is amended to read as follows:

Section 1750.2 As used in the Oklahoma Security Guard and Private Investigator Act, Section 1750.1 et seq. of this title:

1. "Client" means any person or legal entity having a contract with a person or entity licensed pursuant to Section 1750.1 et seq. of this title, which contract authorizes services to be performed in return for financial or other considerations;

2. "Council" means the Council on Law Enforcement Education and Training;

3. "License" means authorization issued by the Council pursuant to this act permitting the holder to perform the functions of a security guard, bouncer, armed security guard, private investigator, investigative agency, or security agency;

4. "Private investigator" means a person who is self-employed, or contracts with, or is employed by an investigative agency for the

purpose of conducting a private investigation and reporting the results to the employer or client of the employer relating to:

- a. potential or pending litigation, civil, or criminal,
- b. divorce or other domestic investigations, or
- c. missing persons or missing property, or
- d. other lawful investigations, but shall not include:
 - (1) a person authorized or employed by the United States Government, any state government, or any agency, department, or political subdivision thereof while engaged in the performance of official duties,
 - (2) a person or employee of a firm, corporation or other legal entity engaged exclusively in a profession licensed by any board, commission, department or court of this state, or
 - (3) a bona fide, salaried, full-time employee of a firm, corporation or other legal entity not in the primary business of soliciting and providing private investigations, who conducts investigations that are exclusive to and incidental to the primary business of said firm, corporation or entity, and when the costs of such investigations are not charged directly back to the particular client or customer who directly benefits from the investigation;

5. "Security agency" means a person, firm, corporation, or other private legal entity in the business of security guard services or armed security guards for hire;

6. "Security guard" means an individual contracting with or employed by a security agency, private business or person to prevent trespass, theft, misappropriation, wrongful concealment of merchandise, goods, money or other tangible items, or engaged as a

bodyguard or as a private watchman to protect persons or property, but shall not include:

- a. for individuals operating unarmed, any person employed as a private watchman or security guard by one employer only in connection with the affairs of such employer where there exists an employer-employee relationship,
- b. a full-time certified peace officer of the United States, this state, or any political subdivision of either,
 - (1) while such peace officer is engaged in the performance of his or her official duties within the course and scope of his or her employment with the United States, this state, or any political subdivision of either, or
 - (2) while such peace officer is engaged in the performance of his or her duties as a railroad police officer, or
 - (3) who receives compensation for private employment on an individual or an individual independent contractual basis as a patrolman, guard, or watchman if such person is employed in an employer-employee relationship or is employed on an individual contractual basis,
- c. any person whose terms of employment as a security guard are governed by a collective bargaining agreement on May 9, 1989, and
- d. any person who is employed as a full-time security guard by a financial institution on May 9, 1989;

7. "Armed security guard" means a security guard authorized to carry a firearm;

8. "Bouncer" means an unarmed individual who is licensed as a security guard under the provisions of the Oklahoma Private Investigator Act and is employed for compensation or who volunteers services for the purpose of checking identification, providing door security or restricting entrance to any establishment, which by law, requires such restriction, and who has the responsibility to intervene with and/or expel disorderly persons from such establishment in order to protect life or property.

9. "Investigative agency" means a self-employed private investigator, a firm, a corporation, or other private legal entity in the business of soliciting the business of private investigation and/or providing private investigations and investigators;

~~9.~~ 10. "Special event" means a public activity in the form of an athletic contest, charity event, exposition or similar event that occurs only on an annual or noncontinuing basis; and

~~10.~~ 11. "Special event license" means a temporary license issued pursuant to Section 1750.1 et seq. of this title which restricts the license holder to employment as a security guard only for the duration of a particular event.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 1750.3, is amended to read as follows:

Section 1750.3 A. The director of the Council on Law Enforcement Education and Training, and any staff member designated by the director, shall have all the powers and authority of peace officers of this state for the purposes of enforcing the provisions of Section 1750.1 et seq. of this title, and all other duties which are or may be conferred upon the Council by Section 1750.1 et seq. of this title. The powers and duties conferred on the director or any staff member appointed by the director as a peace officer shall not limit the powers and duties of other peace officers of this state or any political subdivision thereof. The director, or any staff member appointed by the director as a peace officer shall,

upon request, assist any federal, state, county, or municipal law enforcement agency.

B. The Council on Law Enforcement Education and Training shall have the following powers and duties:

1. To promulgate rules to carry out the purposes of Section 1750.1 et seq. of this title;

2. To establish and enforce standards governing the training of persons required to be licensed pursuant to Section 1750.1 et seq. of this title with respect to:

- a. issuing, denying, or revoking certificates of approval to security training schools, and programs administered by the state, a county, a municipality, a private corporation, or an individual,
- b. certifying instructors at approved security training schools,
- c. establishing minimum requirements for security training schools and periodically reviewing these standards, and
- d. providing for periodic inspection of all security training schools or programs;

3. To establish minimum curriculum requirements for training as the Council may require for security guards, bouncers, armed security guards, and private investigators. Training requirements for unarmed security guards and bouncers shall not exceed forty (40) hours of instruction;

4. To establish minimum requirements for a mandatory continuing education program for all licensed private investigators which shall include, but not be limited to:

- a. establishing a designated minimum number of clock hours of required attendance, not to exceed eight (8) clock hours yearly, at accredited educational functions,

- b. establishing the penalties to be imposed upon a licensee for failure to comply with the continuing education requirements,
- c. establishing a nonpaid advisory board of licensed private investigators to assist the Council in establishing the criteria for determining the qualifications of proposed continuing education programs that would be submitted to the Council for accreditation to meet this requirement, and
- d. providing that the expense of such continuing education shall be paid by the private investigators participating therein;

5. To grant a waiver of any training requirement, except firearms training which shall be required for an armed security guard license, if the applicant has completed not less than one (1) year of full-time employment as a security guard, bouncer, armed security guard, private investigator, or law enforcement officer within a three-year period immediately preceding the date of application and the applicant provides sufficient documentation thereof as may be required by the Council;

6. To grant an applicant credit for fulfilling any prescribed course or courses of training, including firearms training, upon submission of acceptable documentation of comparable training. The Council may grant or refuse any such credit at its discretion;

7. To issue the licenses and identification cards provided for in Section 1750.1 et seq. of this title;

8. To investigate alleged violations of Section 1750.1 et seq. of this title or rules relating thereto and to deny, suspend, or revoke licenses and identification cards if necessary, or to issue notices of reprimand to licensees with or without probation under rules to be prescribed by the Council;

9. To investigate alleged violations of the Oklahoma Security Guard and Private Investigator Act by persons not licensed pursuant to such act and to impose administrative sanctions pursuant to rules or to seek an injunction pursuant to Section 2 of this act;

10. To provide all forms for applications, identification cards, and licenses required by Section 1750.1 et seq. of this title;

11. To enter into reciprocal agreements with officials of other states;

12. To immediately suspend a license if a licensee's actions present a danger to the licensee or to the public; and

13. To require additional testing for continuation or reinstatement of a license if a licensee exhibits an inability to exercise reasonable judgment, skill, or safety.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 1750.4, is amended to read as follows:

Section 1750.4 On and after January 1, 1988, no person may be employed or operate as a security guard, bouncer, private investigator, security agency, or investigative agency until ~~a~~ the appropriate license therefor has been issued by the Council on Law Enforcement Education and Training pursuant to the Oklahoma Security Guard and Private Investigator Act.

SECTION 5. AMENDATORY 59 O.S. 2001, 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 (CLEET) 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, bouncer or armed security guard may be issued a separate license for each position for which qualified, 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 the private investigator also performs the functions of an armed security guard, under the authority of the armed security guard license. If the 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, if 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. Any person issued a private investigator license with a firearms authorized endorsement may carry a concealed firearm when on and off duty, provided the person keeps the firearm concealed from view and is in possession of a valid driver license and a valid private investigator license with a firearms authorization endorsement.

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 Section 1750.1 et seq. of this title. Upon receipt of the license and identification card, the armed security guard is authorized to carry a firearm in the performance of his or her duties subject to the provisions of Section 1750.1 et seq. of this title and the rules promulgated 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 the person has submitted a properly completed application, made under oath, subject to the following conditions:

1. A conditional license shall authorize 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 a 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 duties until after completing a course of firearms training as prescribed by the Council, and having 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 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; 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; provided further that any individual working in the capacity of a bouncer shall be at least twenty-one (21) years of age to work in any establishment which sells or serves alcoholic beverages;

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, as provided herein.

- a. 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 paragraph 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 the felony involved the use of a firearm or was violent in nature.
- b. 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, ~~Section 1750.1 et seq. of this title,~~ 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.
- c. Under oath, the applicant shall certify that he or she has no disqualifying convictions as specified in the

Oklahoma Security Guard and Private Investigator Act
or by the Council.

- d. The applicant shall further meet all other qualifications.
- e. 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;

7. Make a statement that the applicant is not currently undergoing treatment for mental illness, condition, or disorder, make a statement whether the applicant has ever been adjudicated incompetent or committed to a mental institution, and make a statement regarding any history of illegal drug use or alcohol abuse. Upon presentation by the Council on Law Enforcement Education and Training of the name, gender, date of birth, and address of the applicant to the Department of Mental Health and Substance Abuse Services, the Department of Mental Health and Substance Abuse Services shall notify the Council within ten (10) days whether the computerized records of the Department indicate the applicant has ever been involuntarily committed to an Oklahoma state mental institution. For purposes of this subsection, "currently undergoing treatment for a mental illness, condition, or disorder" means the person has been diagnosed by a licensed physician or psychologist, as being afflicted with a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life and such condition continues to exist; and

8. Make a statement regarding misdemeanor domestic violence charges.

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 employing the applicant. The agency shall certify to the Council that the applicant meets the qualifications for security guards, pursuant to subsection H of this section.

J. 1. All persons and agencies shall obtain and maintain liability coverage in accordance with the following minimum standards:

- a. 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, or
- b. 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.

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 private investigators with the firearms authorization, or combination armed license; and Five Thousand Dollars (\$5,000.00) for unarmed security guards, bouncers and self-employed unarmed private investigators who employ no other investigators.

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

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.

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.

L. Similar or duplicate agency names will not be issued. Each agency name must be distinguishably different.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 1750.9, is amended to read as follows:

Section 1750.9. A. Each security guard, armed security guard, bouncer or private investigator licensed pursuant to this act shall carry a valid driver license or state-issued photo identification card and an identification card issued by the Council on Law Enforcement Education and Training at all times while on duty as a security guard, armed security guard, bouncer or private investigator, and each security agency and investigative agency shall display in its primary office in this state a valid license therefor issued by the Council.

B. No licensee or officer, director, partner, or employee of a licensee, may wear a uniform, or use a title, an insignia, badge, or an identification card, or make any statements that would lead a person to believe that he is connected in any way with the federal government, a state government, or any political subdivision of a

state government, unless he is authorized by proper authorities to do so.

C. Each discharge of a firearm in the performance of his employment by any licensee authorized by this act to carry a firearm, other than for training purposes, shall be reported immediately to the Council by said licensee.

SECTION 7. This act shall become effective November 1, 2006.

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LKS

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