

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 757

By: Shurden

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 1750.2, 1750.3, 1750.3A and 1750.5, which relate to the Oklahoma Security Guard and Private Investigator Act; updating certain references; adding definition; modifying powers and duties of the Council on Law Enforcement Education and Training; providing exemption for certain evaluation under certain circumstances; providing for certain preclusive period; adding certain license to be issued; requiring certain applicants to meet certain qualifications; and providing an effective date.

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

SECTION 1. 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~~ the Oklahoma Security Guard and Private Investigator Act, 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~~ the Oklahoma Security Guard and Private Investigator Act permitting the holder to perform the functions of a security guard, 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. "Armed private investigator" means a private investigator authorized to carry a firearm;

6. "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.~~ 7. "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.~~ 8. "Armed security guard" means a security guard authorized to carry a firearm;

~~8.~~ 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~~ the Oklahoma Security Guard and Private Investigator Act which restricts the license holder to employment as a security guard only for the duration of a particular event.

SECTION 2. 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~~ the Oklahoma Security Guard and Private Investigator Act, and all other duties which are or may be conferred upon the Council by ~~Section 1750.1 et seq. of this title~~ the Oklahoma Security Guard and Private Investigator Act. 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~~ the Oklahoma Security Guard and Private Investigator Act;

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~~ the Oklahoma Security Guard and Private Investigator Act 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, armed security guards, and private investigators. Training requirements for unarmed security guards shall not exceed forty (40) hours of instruction;

4. To establish minimum requirements for a mandatory continuing education program for all licensed private investigators and security guards 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, 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~~ the Oklahoma Security Guard and Private Investigator Act;

8. To investigate alleged violations of ~~Section 1750.1 et seq. of this title~~ the Oklahoma Security Guard and Private Investigator Act 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~~ 1750.2A of this title;

10. To provide all forms for applications, identification cards, and licenses required by ~~Section 1750.1 et seq. of this title~~ the Oklahoma Security Guard and Private Investigator Act;

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

Section 1750.3A A. Each applicant for an armed security guard license shall be administered any current standard form of the Minnesota Multiphasic Personality Inventory (MMPI), or other psychological evaluation instrument approved by the Council on Law Enforcement Education and Training, which shall be administered during the firearms training phase required by Section 1750.3 of this title. The security training school administering such instrument shall forward the response data to a psychologist licensed by the State Board of Examiners of Psychologists for evaluation. The licensed psychologist shall be of the applicant's choice. Applicants with comparable training shall complete the psychological test and evaluation requirements prior to licensing.

It shall be the responsibility of the applicant to bear the cost of the psychological evaluation.

B. If the licensed psychologist is unable to certify the applicant's psychological capability to exercise appropriate judgment, restraint, and self-control, after evaluating the data, the psychologist shall employ whatever other psychological measuring instruments or techniques deemed necessary to form a professional opinion. The use of any psychological measuring instruments or techniques shall require a full and complete written explanation to the Council on Law Enforcement Education and Training.

C. The psychologist shall forward a written psychological evaluation, on a form prescribed by the Council, to the Council within fifteen (15) days of the evaluation, even if the applicant is found to be psychologically at risk. The Council may utilize the results of the psychological evaluation for up to six (6) months from the date of the evaluation after which the applicant shall be reexamined. No person who has been found psychologically at risk in the exercise of appropriate judgment, restraint, or self-control shall reapply for certification until one (1) year from the date of being found psychologically at risk.

D. 1. Active peace officers who have been certified by the Council on Law Enforcement Education and Training shall be exempt from the provisions of this section.

2. Retired peace officers who have been certified by the Council on Law Enforcement Education and Training shall be exempt from the provisions of this section; provided that, if the person has previously undergone treatment for a mental illness, condition, or disorder which required medication or supervision, as defined by paragraph 7 of Section 1290.10 of Title 21 of the Oklahoma Statutes, the person shall be precluded from the exemption. The preclusive period shall be three (3) years from the last date of treatment or upon presentation of a certified statement from a licensed physician

stating that the person is either no longer disabled by any mental or psychiatric illness, condition, or disorder or that the person has been stabilized on medication for ten (10) years or more.

SECTION 4. 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); and
7. Armed Private Investigator License.

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 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~~ the Oklahoma Security Guard and Private Investigator Act. 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~~ the Oklahoma Security Guard and Private Investigator Act 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 Oklahoma Security Guard and Private Investigator Act, 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, Armed 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, 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 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 5. This act shall become effective November 1, 2005.

50-1-739

LKS

6/13/2015 8:53:51 AM