STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1413 By: Hall

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2011, Section 1750.5, which relates to the Oklahoma Security Guard and Private Investigator Act; authorizing armed private investigators to openly carry a firearm under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, 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;

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. 1. 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.

2. If the private investigator performs no functions of an armed security guard, the Council may issue an armed private investigator license. The applicant for an armed private investigator license must complete Phase I, III and IV training and pass the psychological examination and state test; provided however, active certified peace officers and retired certified peace officers shall be exempt from the psychological examination as provided in Section 1750.3A of this title, and active certified peace officers of any state, county or municipal law enforcement agency in this state shall be exempt from the Phase I, III and IV training and state test for an armed private investigator. The Council will charge the same fee for the armed private investigators license as the cost of the armed security guard license; provided however, an active certified peace officer who is an applicant for a armed

private investigator or armed security guard shall be charged only twenty percent (20%) of the required fee.

3. Any person issued an armed private investigator license may carry a concealed or unconcealed 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 armed private investigator license.

D. Any identification card issued to a person meeting the license requirements for an armed security guard or an armed private investigator shall be distinct and shall explicitly state that the person is authorized to carry a firearm pursuant to the provisions of the Oklahoma Security Guard and Private Investigator Act. Upon receipt of the license and identification card, the armed security guard or armed private investigator is authorized to carry a firearm in the performance of his or her duties subject to the provisions of 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 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 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 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 armed private investigators, 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 2. This act shall become effective November 1, 2013.

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