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HOUSE BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO LICENSING; ENACTING THE SECURITY GUARD ACT;
REMOVING CERTAIN REGULATED PERSONS FROM THE PRIVATE
INVESTIGATIONS ACT; IDENTIFYING REGULATED PERSONS; CREATING THE
SECURITY GUARD ADVISORY BOARD; CREATING THE SECURITY GUARD
FUND; PROVIDING LICENSING PROCEDURES AND REQUIREMENTS;
PROVIDING PENALTIES; PROVIDING FEE LIMITATIONS; PROVIDING FOR A
TRANSITION PERIOD; AMENDING, REPEALING AND ENACTING SECTIONS OF
THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 29 of this act may be cited as the "Security Guard
Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Security Guard Act:

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1 A. "armored car company" means a company that
2 knowingly and willingly transports money and other negotiables
3 for a fee or other remuneration;

4 B. "bodyguard" means an individual who physically
5 performs the mission of personal security for another
6 individual;

7 C. "branch office" means an office of a private
8 patrol company physically located in New Mexico and managed,
9 controlled or directed by a private patrol operations manager;

10 D. "client" means an individual or legal entity
11 having a contract that authorizes services to be provided in
12 return for financial or other consideration;

13 E. "conviction" means any final adjudication of
14 guilty, whether pursuant to a plea of guilty or nolo contendere
15 or otherwise and whether or not the sentence is deferred or
16 suspended;

17 F. "department" means the regulation and licensing
18 department;

19 G. "individual" means a single human being;

20 H. "legal business entity" means a sole
21 proprietorship, corporation, partnership, limited liability
22 company, limited liability partnership or other entity formed
23 for business purposes;

24 I. "licensee" means a person licensed pursuant to
25 the Security Guard Act;

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1 J. "private patrol company" means a legal business
2 entity, the location of which may be within or outside of the
3 state, including an independent or proprietary commercial
4 organization that provides private patrol operator services
5 that are performed in New Mexico and the activities of which
6 include employment of licensed private patrol operators or
7 security guards;

8 K. "private patrol employee" means an individual
9 who is registered by the department to work under the direct
10 control and supervision of a private patrol operator for a
11 private patrol company;

12 L. "private patrol operations manager" means an
13 individual who:

14 (1) is licensed as a private patrol operator
15 or registered as a level three security guard and is issued a
16 license by the department as a private patrol operations
17 manager;

18 (2) directs, controls or manages a private
19 patrol company for the owner of the company; and

20 (3) is assigned to and operates from the
21 private patrol company that the private patrol operations
22 manager is licensed to manage or from a branch office of that
23 private patrol company;

24 M. "private patrol operator" means an individual
25 who is licensed by the department to:

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1 (1) conduct uniformed or nonuniformed services
2 as a security guard to protect property and persons on or in
3 the property;

4 (2) prevent the theft, unlawful taking, loss,
5 embezzlement, misappropriation or concealment of goods, wares,
6 merchandise, money, bonds, stocks, notes, documents, papers or
7 property of any kind; or

8 (3) perform the services required of a
9 security guard or security dog handler or provide security
10 services for an armored car company;

11 N. "proprietary commercial organization" means an
12 organization or division of an organization that provides full-
13 or part-time security guard services solely for itself;

14 O. "registrant" means an individual registered as a
15 private patrol employee, a private patrol operations manager or
16 a security guard at any level;

17 P. "security dog handler" means an individual who
18 patrols with dogs to detect illegal substances or explosives;

19 Q. "security guard" means an individual who is
20 registered to engage in uniformed or nonuniformed services
21 under the direct control and supervision of a licensed private
22 patrol operator or a private patrol operations manager to
23 perform such security missions as watchman, fixed post guard,
24 dog handler, patrolman or other mission to protect property or
25 prevent thefts; and

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1 R. "special event" means a parade or other public
2 or private event of short duration requiring security.

3 Section 3. [NEW MATERIAL] LICENSE REQUIRED.--It is
4 unlawful for an individual to:

5 A. act as a private patrol operator, security guard
6 or private patrol operations manager or to make any
7 representation as being a licensee or registrant unless the
8 individual is licensed by the department pursuant to the
9 Security Guard Act;

10 B. render physical protection for remuneration as a
11 bodyguard unless the individual is licensed as a private patrol
12 operator;

13 C. continue to act as a private patrol operator,
14 security guard or private patrol operations manager if the
15 individual's license issued pursuant to the Security Guard Act
16 has expired; or

17 D. falsely represent that the individual is
18 employed by a licensee.

19 Section 4. [NEW MATERIAL] PERSONS EXEMPTED.--

20 A. As used in this section, "temporary" means a
21 period of time not to exceed the duration of one private event
22 or one school or nonprofit organization event, as described in
23 Paragraphs (2) and (3) of Subsection B of this section.

24 B. The Security Guard Act does not apply to:

25 (1) an individual employed exclusively and

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1 regularly by one employer in connection with the affairs of
2 that employer; provided that the individual patrols or provides
3 security only on the premises of the employer as limited by the
4 employer;

5 (2) an individual employed exclusively to
6 provide temporary security at a private event that is not open
7 to the public;

8 (3) an individual providing temporary security
9 at athletic or other youth events and where the events occur
10 under the auspices of a public or private school or a nonprofit
11 organization;

12 (4) an officer or employee of the United
13 States or this state or a political subdivision of the United
14 States or this state while that officer or employee is engaged
15 in the performance of the officer's or employee's official
16 duties; or

17 (5) a charitable philanthropic society or
18 association duly incorporated under the laws of this state that
19 is organized and maintained for the public good and not for
20 private profit.

21 Section 5. [NEW MATERIAL] ADMINISTRATION OF ACT--RULES.--

22 A. The department shall enforce and administer the
23 provisions of the Security Guard Act.

24 B. The department shall keep a record of each
25 individual licensee.

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1 C. The department shall adopt and enforce rules
2 necessary to carry out the provisions of the Security Guard
3 Act, including establishing professional ethical standards.

4 D. The department shall adopt rules for:

- 5 (1) licensing private patrol operators,
6 private patrol operations managers and private patrol
7 employees;
- 8 (2) registering security guards and private
9 patrol employees;
- 10 (3) establishing minimum training and
11 educational standards for licensure and registration;
- 12 (4) establishing continuing education
13 requirements;
- 14 (5) establishing and operating a branch
15 office;
- 16 (6) creating a policy on reciprocity with
17 other states and territories of the United States;
- 18 (7) providing permits for security guards for
19 special events; and
- 20 (8) conducting background investigations.

21 Section 6. [NEW MATERIAL] SECURITY GUARD ADVISORY
22 BOARD--CREATED--MEMBERS.--

23 A. The "security guard advisory board" is created.

24 B. The superintendent of regulation and licensing
25 shall appoint members to the security guard advisory board to

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1 assist in the conduct of the examination process for licensees
2 and registrants and to assist the department in other manners
3 as requested by the superintendent or provided for in rules of
4 the department.

5 C. The security guard advisory board members shall
6 consist of the following:

7 (1) three security guards;

8 (2) five private patrol operators or private
9 patrol operations managers;

10 (3) three security instructors who use
11 training material approved by the department; and

12 (4) one member of the public.

13 D. Members of the security guard advisory board
14 shall serve three-year staggered terms as determined by the
15 superintendent of regulation and licensing and shall not be
16 reappointed, if at all, unless three years has elapsed since
17 the expiration of a prior term.

18 E. The security board advisory board shall meet
19 monthly as scheduled by the chair and as called by the
20 superintendent of regulation and licensing. The board annually
21 shall elect a chair and recording secretary from among its
22 members.

23 F. The public member of the security guard advisory
24 board or the public member's spouse shall not:

25 (1) have been licensed pursuant to the

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1 Security Guard Act, Private Investigations Act or any prior
2 similar statutory provisions; or

3 (2) have a direct or indirect financial
4 interest in a private investigation company, private patrol
5 company, polygraph business or a related business.

6 G. Members of the security guard advisory board
7 shall be reimbursed pursuant to the Per Diem and Mileage Act
8 and shall receive no other compensation, perquisite or
9 allowance for each day spent in the discharge of their duties.

10 Section 7. [NEW MATERIAL] PRIVATE PATROL OPERATOR--
11 REQUIREMENTS FOR LICENSURE.--

12 A. The department shall issue a license for a
13 private patrol operator to an individual who files a completed
14 application accompanied by the required fees and who submits
15 satisfactory evidence that the applicant:

16 (1) is at least twenty-one years of age;
17 (2) is of good moral character;
18 (3) has successfully passed an examination as
19 required by department rules;

20 (4) has not been convicted of a felony
21 offense, an offense involving dishonesty, an offense involving
22 an intentional violent act or the illegal use or possession of
23 a deadly weapon and has not been found to have violated
24 professional ethical standards;

25 (5) has at least three years' experience of

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1 actual work performed as a security guard or an equivalent
2 position, one year of which shall have been in a supervisory
3 capacity. The experience shall have been acquired within five
4 years preceding the filing of the application with the
5 department. Years of qualifying experience and the precise
6 nature of that experience shall be substantiated by written
7 certification from the applicant's employers and shall be
8 subject to independent verification by the department as it
9 determines is warranted. The burden of proving necessary
10 experience is on the applicant;

11 (6) is firearm-certified if the position will
12 require being armed with a firearm; and

13 (7) meets other requirements as set forth in
14 rules of the department.

15 B. A private patrol operator may not investigate
16 acts except those that are incidental to a theft, embezzlement,
17 loss, misappropriation or concealment of property or other item
18 that the private patrol operator has been engaged or hired to
19 protect, guard or watch.

20 Section 8. [NEW MATERIAL] PRIVATE PATROL COMPANY--
21 REQUIREMENTS FOR LICENSURE.--

22 A. The department shall issue a license for a
23 private patrol company to a person who files a completed
24 application accompanied by the required fees and who submits
25 satisfactory evidence that the applicant:

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1 (1) if an individual, is of good moral
2 character; or if a legal business entity, the owners, officers
3 or directors of the entity are of good moral character;

4 (2) if an individual, has not been convicted
5 of a felony offense, an offense involving dishonesty, an
6 offense involving an intentional violent act or the illegal use
7 or possession of a deadly weapon and has not been found to have
8 violated professional ethical standards; or if a legal business
9 entity, the owners, officers or directors of the entity, either
10 singly or collectively, have not been convicted of a felony
11 offense, an offense involving dishonesty or an offense
12 involving an intentional violent act or the illegal use or
13 possession of a deadly weapon and have not been found to have
14 violated professional ethical standards;

15 (3) has an owner or a licensed private patrol
16 operations manager who manages the daily operations of the
17 private patrol company;

18 (4) maintains a physical location in New
19 Mexico where records are maintained and made available for
20 department inspection;

21 (5) maintains a New Mexico registered agent if
22 the applicant is a private patrol company located outside of
23 New Mexico; and

24 (6) meets all other requirements set forth in
25 the rules of the department.

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1 B. The owner or the chief executive officer of a
2 private patrol company shall maintain a general liability
3 certificate of insurance in an amount required by the
4 department. The department shall suspend the license issued
5 pursuant to this section of a private patrol company that fails
6 to maintain an effective general liability certificate of
7 insurance as required. The department shall not reinstate the
8 license of a private patrol company that has had its license
9 suspended pursuant to this subsection until an application is
10 submitted to the department with the necessary fees and a copy
11 of the private patrol company's general liability certificate
12 of insurance newly in effect. The department may deny an
13 application for reinstatement of a private patrol company's
14 license, notwithstanding the applicant's compliance with this
15 subsection, for:

16 (1) a reason that would justify a denial to
17 issue a new private patrol company license or that would be
18 cause for a suspension or revocation of a private patrol
19 company's license; or

20 (2) the performance by the applicant of an act
21 requiring a license issued pursuant to the Security Guard Act
22 while the applicant's license is under suspension for failure
23 to maintain the applicant's general liability certificate of
24 insurance in effect.

25 Section 9. [NEW MATERIAL] PRIVATE PATROL OPERATIONS

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1 MANAGER--REQUIREMENT FOR LICENSURE--NOTIFICATION OF DEPARTMENT
2 IN EVENT OF TERMINATION OF EMPLOYMENT.--

3 A. The department shall issue a license for a
4 private patrol operations manager to an individual who files a
5 completed application accompanied by the required fees and who
6 submits satisfactory evidence that the applicant:

7 (1) possesses a current license in good
8 standing as a private patrol operator or a registration as a
9 level three security guard;

10 (2) has successfully passed an examination
11 required by department rule;

12 (3) is employed by the private patrol company
13 that the applicant is being licensed to manage; and

14 (4) meets other requirements as set forth in
15 the rules of the department.

16 B. A private patrol operations manager who ceases
17 to be employed by the private patrol company that the manager
18 is licensed to manage, before leaving the company, shall
19 surrender the private patrol operations manager's license to
20 the owner, officer or director who is required to temporarily
21 take over the management of the private patrol company. The
22 owner, officer or director who temporarily takes over managing
23 the private patrol company within thirty days of the
24 termination from employment of the private patrol operations
25 manager shall:

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1 (1) notify the department of the termination
2 of the employment of the private patrol operations manager;

3 (2) submit the surrendered license; and

4 (3) submit an application to the department
5 naming a new private patrol operations manager, who shall not
6 begin to perform the duties of a private patrol operations
7 manager until the department grants the applicant a private
8 patrol operations manager's license.

9 C. Failure to notify the department within thirty
10 days of the private patrol operations manager's termination
11 from employment subjects the license of the private patrol
12 company to suspension or revocation by the department.

13 D. Reinstatement of the private patrol company's
14 license may occur only upon the filing of an application for
15 reinstatement and payment of the reinstatement fee.

16 Section 10. [NEW MATERIAL] SECURITY GUARD--LEVELS OF
17 REGISTRATION.--

18 A. A security guard shall be registered at one of
19 the three levels enumerated in this section that are based on
20 experience, age and other qualifications of the registrant:

21 (1) level one is the entry level registration
22 for security guards who will be working in a position not
23 requiring the registrant to carry arms;

24 (2) level two is the intermediate level
25 registration for security guards who are required to be armed

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1 but not with firearms; and

2 (3) level three is the advanced level
3 registration for security guards who may be required to be
4 armed with a firearm.

5 B. Each security guard shall receive a card issued
6 by the department in the security guard's name with a definite
7 expiration date that shall be carried by the security guard at
8 all times when the security guard is performing duties that
9 require the security guard to be registered pursuant to the
10 provisions of this section. A security guard is not required
11 to obtain a new card each time the security guard changes
12 employment.

13 Section 11. [NEW MATERIAL] SECURITY GUARD--LEVEL ONE--
14 REGISTRATION--REQUIREMENTS.--

15 A. On or after July 1, 2009, every individual
16 seeking employment or employed as a level one security guard
17 shall file an application for registration with the department.

18 B. The department shall issue a registration for a
19 level one security guard to an individual who files a completed
20 application accompanied by the required fees and who submits
21 satisfactory evidence that the applicant:

22 (1) is at least eighteen years of age;

23 (2) is of good moral character;

24 (3) has successfully completed an examination
25 as required by department rule;

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1 (4) has not been convicted of a felony or an
2 offense involving dishonesty, an offense involving an
3 intentional violent act or the illegal use or possession of a
4 deadly weapon and has not been found to have violated
5 professional ethical standards;

6 (5) has completed a curriculum approved in
7 department rule consisting of level one security guard training
8 prior to being placed on a guard post for the first time as a
9 level one security guard; that training may be provided by:

10 (a) a public educational institution in
11 New Mexico or an educational institution licensed by the higher
12 education department pursuant to the Post-Secondary Educational
13 Institution Act;

14 (b) an in-house training program
15 provided by a licensed private patrol company using a
16 curriculum approved by the department; or

17 (c) any other department-approved
18 educational institution using a curriculum approved by the
19 department and that complies with department standards set
20 forth in department rules;

21 (6) is employed by a private patrol company
22 under the direct supervision of a licensed private patrol
23 operator, a level three security guard or a private patrol
24 operations manager; and

25 (7) meets other requirements as set forth in

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1 department rules.

2 C. A private patrol company shall notify the
3 department within thirty days from the date of termination of a
4 level one security guard of the employment termination.

5 Section 12. [NEW MATERIAL] SECURITY GUARD--LEVEL TWO--
6 REGISTRATION--REQUIREMENTS.--

7 A. On or after July 1, 2009, every individual
8 seeking employment or employed as a level two security guard
9 shall file an application for registration with the department.

10 B. The department shall issue a registration for a
11 level two security guard to an individual who files a completed
12 application accompanied by the required fees and who submits
13 satisfactory evidence that the applicant:

14 (1) meets the requirements to be granted
15 registration as a level one security guard and maintains in
16 good standing a current registration as a level one security
17 guard;

18 (2) has successfully completed an examination
19 as required by department rule;

20 (3) possesses a high school diploma or its
21 equivalent;

22 (4) in addition to the training required to be
23 registered as a level one security guard, has completed a
24 curriculum approved in department rule of level two security
25 guard training prior to being placed on a guard post for the

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1 first time as a level two security guard; that training may be
2 provided by:

3 (a) a public educational institution in
4 New Mexico or an educational institution licensed by the higher
5 education department pursuant to the Post-Secondary Educational
6 Institution Act;

7 (b) an in-house training program
8 provided by a licensed private patrol company using a
9 curriculum approved by the department;

10 (c) the New Mexico law enforcement
11 academy; or

12 (d) any other department-approved
13 educational institution using a curriculum approved by the
14 department and complying with department standards set forth in
15 department rules;

16 (5) is employed by a private patrol company
17 under the direct supervision of a licensed private patrol
18 operator, a level three security guard or a private patrol
19 operations manager; and

20 (6) meets other requirements as set forth in
21 department rules.

22 C. A private patrol company shall notify the
23 department within thirty days from the date of termination of a
24 level two security guard of the employment termination.

25 Section 13. [NEW MATERIAL] SECURITY GUARD--LEVEL THREE--

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1 REGISTRATION--REQUIREMENTS.--

2 A. On or after July 1, 2009, every individual
3 seeking employment or employed as a level three security guard
4 shall file an application for registration with the department.

5 B. The department shall issue a registration for a
6 level three security guard to an individual who files a
7 completed application accompanied by the required fees and who
8 submits satisfactory evidence that the applicant:

9 (1) is at least twenty-one years of age;

10 (2) meets the requirements to be granted
11 registration as a level two security guard and maintains in
12 good standing a current registration as a level two security
13 guard;

14 (3) has successfully completed an examination
15 as required by department rule;

16 (4) possesses a high school diploma or its
17 equivalent;

18 (5) in addition to the training required to be
19 registered as a level two security guard and before the
20 applicant shall be placed for the first time at a guard post as
21 a level three security guard, has completed a curriculum
22 approved by the department consisting of the minimum training
23 for firearm certification prescribed by the department;
24 provided that the additional training required by the
25 department is provided by:

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1 (a) a public educational institution in
2 New Mexico or an educational institution licensed by the higher
3 education department pursuant to the Post-Secondary Educational
4 Institution Act;

5 (b) an in-house training program
6 provided by a licensed private patrol company using a
7 curriculum approved by the department;

8 (c) the New Mexico law enforcement
9 academy; or

10 (d) any other department-approved
11 educational institution using a curriculum approved by the
12 department and complying with department standards set forth in
13 department rules;

14 (6) is firearm-certified by the New Mexico law
15 enforcement academy or the national rifle association;

16 (7) is employed by a private patrol company
17 under the direct supervision of a licensed private patrol
18 operator, another level three security guard or a private
19 patrol operations manager;

20 (8) beginning on July 1, 2009, has
21 successfully passed a psychological evaluation as prescribed by
22 the department to determine suitability for carrying firearms;
23 and

24 (9) meets other requirements as set forth in
25 department rules.

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1 C. A private patrol company shall notify the
2 department within thirty days from the date of termination of a
3 level three security guard of the employment termination.

4 Section 14. [NEW MATERIAL] SPECIAL EVENT PERMIT--
5 NONRESIDENT SECURITY GUARD PROCEDURE--QUALIFICATIONS--
6 PROHIBITED USE.--

7 A. A private patrol company employing a nonresident
8 security guard temporarily for a special event shall apply to
9 the department for and may be issued a special event permit for
10 each nonresident security guard qualified to be employed at the
11 special event.

12 B. A special event permit is issued for a specific
13 nonresident security guard and a specific special event and
14 shall not be transferred to another security guard or used for
15 a special event other than for the special event for which the
16 permit is issued.

17 C. To be issued a special event permit, a private
18 patrol company shall provide the department with a description
19 of the special event, its location and the dates on which the
20 temporary nonresident security guard will be employed to
21 provide services at the special event. A special event permit
22 shall bear the name of the private patrol company and contact
23 information, the name of the nonresident security guard, the
24 name of the special event for which it is issued, the dates of
25 the special event and other pertinent information required by

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1 the department.

2 D. A special event permit shall be issued only to
3 an individual who qualifies for a level one or higher security
4 guard registration and who:

5 (1) is not a resident of New Mexico;

6 (2) does not hold a registration as a security
7 guard in New Mexico; and

8 (3) meets other requirements specified by the
9 department.

10 E. A special event permit requiring a security
11 guard to carry a firearm shall only be issued to an individual
12 who is qualified to be registered as a level three security
13 guard.

14 F. It is a violation of the Security Guard Act for
15 a private patrol company to circumvent the registration process
16 for permanent or long-term part-time employment of security
17 guards through use of the provisions of this section.

18 Section 15. [NEW MATERIAL] FEES.--

19 A. The department shall establish a schedule of
20 reasonable fees as follows:

21 (1) private patrol operator fees:

22 (a) application fee, not to exceed one
23 hundred dollars (\$100);

24 (b) initial private patrol operator's
25 license fee or license renewal fee, not to exceed three hundred

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1 dollars (\$300); and

2 (c) initial private patrol operations
3 manager license fee or license renewal fee, not to exceed two
4 hundred dollars (\$200);

5 (2) security guard fees:

6 (a) level one or level two security
7 guard registration fee or registration renewal fee, not to
8 exceed fifty dollars (\$50.00); and

9 (b) level three security guard
10 registration fee or registration renewal fee, not to exceed
11 seventy-five dollars (\$75.00); and

12 (3) other fees applying to private patrol
13 operators:

14 (a) change in license fee, not to exceed
15 two hundred dollars (\$200);

16 (b) late fee on license or registration
17 renewals, not to exceed one hundred dollars (\$100);

18 (c) special event permit fee, not to
19 exceed one hundred dollars (\$100); and

20 (d) special event license fee for a
21 private patrol company, not to exceed fifty dollars (\$50.00).

22 B. Fees charged by the department shall not be
23 increased prior to fiscal year 2011.

24 Section 16. [NEW MATERIAL] LICENSE AND REGISTRATION
25 RENEWAL.--

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1 A. A license or registration granted pursuant to
2 the provisions of the Security Guard Act shall be renewed by
3 the department annually unless the term of the license is set
4 by the department in rule to be a longer period.

5 B. A licensee or registrant with an expired license
6 or registration shall not perform an activity for which a
7 license or registration is required pursuant to the Security
8 Guard Act until the license or registration has been renewed or
9 reinstated.

10 C. The department may require proof of continuing
11 education credits or other proof of competency as a requirement
12 of renewal or reinstatement of a license or registration.

13 D. A license or registration issued to a person
14 pursuant to the Security Guard Act shall not be transferred or
15 assigned.

16 Section 17. [NEW MATERIAL] DISPLAY OF LICENSE--
17 NOTIFICATION OF CHANGES.--

18 A. A license shall at all times be posted in a
19 conspicuous place in the principal place of business in New
20 Mexico of the licensee.

21 B. A copy of the registration of each registrant
22 employed by a private patrol company shall be maintained in the
23 main New Mexico office of the company and in the branch office
24 in which the registrant works.

25 C. A registration card issued by the department

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1 shall at all times be in the possession of and located on the
2 person of a registrant when working.

3 D. A security guard shall wear the registration
4 card on the outside of the guard's uniform so that the card is
5 visible to others.

6 E. A licensee, including owners, officers or
7 directors of a private patrol company, or a registrant shall
8 notify the department immediately in writing of a change in the
9 mailing or contact address of the licensee or registrant.

10 F. Failure to notify the department within thirty
11 days of changes required to be reported pursuant to this
12 section or failure to carry or display a registration as
13 required is grounds for suspension of a license or
14 registration.

15 Section 18. [NEW MATERIAL] GENERAL OPERATIONS PROVISIONS
16 OF COMPANIES--~~MANAGEMENT--LIABILITY FOR EMPLOYEES' CONDUCT--~~
17 MAINTENANCE OF RECORDS REQUIRED--~~REQUIRED AND PERMITTED~~
18 ACTIVITIES--~~ALLOWED CATEGORIES OF UNLICENSED EMPLOYEES.--~~

19 A. An owner of a private patrol company providing
20 services in New Mexico shall operate, direct, control and
21 manage that company; provided that the owner is licensed as a
22 private patrol operator or registered as a level three security
23 guard. An owner of a private patrol company who is not
24 licensed as a private patrol operator or registered as a level
25 three security guard shall employ a private patrol operations

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1 manager and shall turn over the operation, direction, control
2 and management of the private patrol company to that manager.

3 B. A private patrol company shall not conduct
4 business under a fictitious name until the company has obtained
5 the authorization for use of the name from the department. The
6 department shall not authorize the use of a fictitious name
7 that may generate public confusion with the name of a public
8 officer or agency or the name of an existing private patrol
9 company.

10 C. A private patrol company is liable for the
11 conduct of the company's employees, including the conduct of
12 its private patrol operations manager.

13 D. A private patrol company shall maintain records
14 of the qualifications, performance and training of all of its
15 current and former employees as required by the department.
16 The records are subject to inspection by the department upon
17 reasonable notice to the owner or private patrol operations
18 manager.

19 E. Except as otherwise provided in this section,
20 every employee of a licensed private patrol company shall be
21 licensed or registered by the department as employees of the
22 company with which the employee is employed; provided, however,
23 that a licensee or registrant may work for more than one
24 company concurrently.

25 F. A licensee or registrant shall notify the

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1 department in writing within thirty days of each change in the
2 licensee's or registrant's employment by filing an amendment to
3 the licensee's or registrant's application obtained from the
4 department. If a licensee or registrant ceases to be employed
5 by a private patrol company, the licensee or registrant shall
6 notify the department in writing within thirty days from the
7 date the licensee or registrant ceases employment with that
8 company.

9 G. A private patrol company shall notify the
10 department within thirty days of a change in ownership
11 structure or, if a corporation, a change in the membership of
12 the board of directors.

13 H. Employees of a private patrol company who are
14 engaged exclusively to perform stenographic, typing, word
15 processing, secretarial, receptionist, accounting, bookkeeping,
16 information technology or other business applications or
17 support functions and who do not perform the work of a private
18 patrol operator or a security guard are not required to be
19 licensed or registered pursuant to the Security Guard Act.

20 I. An individual who is not licensed or qualified
21 to be employed as a private patrol operations manager shall not
22 be employed to perform the duties required of that manager.

23 Section 19. [NEW MATERIAL] LIABILITY INSURANCE.--

24 A. The owner or the chief executive officer of a
25 private patrol company shall maintain a general liability

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1 certificate of insurance in an amount required by the
2 department.

3 B. A general liability certificate of insurance
4 executed and filed with the department pursuant to the Security
5 Guard Act shall remain in force until the surety company
6 issuing the bond or the certificate has terminated future
7 indemnity by notice to the department.

8 Section 20. [NEW MATERIAL] PROHIBITED ACTS.--

9 A. A licensee or registrant may divulge to a law
10 enforcement officer or district attorney, the attorney general
11 or the attorney general's representatives information the
12 licensee or registrant acquires concerning a criminal offense,
13 but the licensee or registrant shall not divulge to any other
14 person, except as the licensee or registrant is required by
15 law, information acquired by the licensee or registrant except
16 at the direction of the licensee's or registrant's employer or
17 the client for whom the information was obtained.

18 B. No licensee or registrant shall knowingly make a
19 false report to the licensee's or registrant's employer or the
20 client for whom the information was being obtained.

21 C. No written report shall be submitted to a client
22 except by the licensee, or a person authorized by the licensee,
23 and the person submitting the report shall exercise diligence
24 in ascertaining whether the facts and information of the report
25 are true and correct.

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1 D. No licensee or registrant shall use a title or
2 wear a uniform, use an insignia, use an identification card or
3 make a statement with the intent to give an impression that the
4 licensee or registrant is connected in any way with the federal
5 or state government or a political subdivision of either.

6 E. No private patrol operator licensee, private
7 patrol operations manager or level three security guard shall
8 use a badge except when engaged in security guard or patrol
9 work and while wearing a uniform.

10 F. No licensee or registrant shall appear as an
11 assignee party in a proceeding involving a claim and delivery
12 action to recover or possess property or action for foreclosing
13 a chattel mortgage, mechanic's lien, materialman's lien or any
14 other lien.

15 Section 21. [NEW MATERIAL] DENIAL, SUSPENSION OR
16 REVOCATION OF LICENSE OR REGISTRATION.--In accordance with
17 procedures contained in the Uniform Licensing Act, the
18 department may deny, suspend or revoke a license or
19 registration held or applied for under the Security Guard Act
20 or reprimand or place on probation a licensee or registrant
21 upon grounds that the licensee, registrant or applicant:

22 A. made a false statement or gave false information
23 in connection with an application for a license or registration
24 or renewal or reinstatement of a license or registration;

25 B. violated a provision of the Security Guard Act;

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1 C. violated a rule of the department adopted
2 pursuant to the Security Guard Act;

3 D. has been convicted of a felony or any crime
4 involving dishonesty or illegally using, carrying or possessing
5 a deadly weapon;

6 E. impersonated or permitted or aided and abetted
7 an employee of a private patrol company to impersonate a law
8 enforcement officer or employee of the United States or of a
9 state or political subdivision of either;

10 F. committed or permitted an employee of a private
11 patrol company to commit an act while the license or
12 registration of the person licensed or registered pursuant to
13 the Security Guard Act was expired that would be cause for the
14 suspension or revocation of a license or registration or
15 grounds for the denial of an application for a license or
16 registration;

17 G. willfully failed or refused to render to a
18 client services or a report as agreed between the parties, for
19 which compensation has been paid or tendered in accordance with
20 the agreement of the parties;

21 H. committed assault, battery or kidnaping or used
22 force or violence on a person without justification;

23 I. knowingly violated or advised, encouraged or
24 assisted the violation of a court order or injunction in the
25 course of business of the licensee or registrant;

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1 J. knowingly issued a worthless or otherwise
2 fraudulent payroll check that was not redeemed within two days
3 of denial of payment by a bank;

4 K. has been chronically or persistently inebriated
5 or addicted to the illegal use of dangerous or narcotic drugs;

6 L. has been adjudged mentally incompetent or insane
7 by regularly constituted authorities;

8 M. while unlicensed, committed or aided and abetted
9 the commission of any act for which a license is required under
10 the Security Guard Act; or

11 N. has been found to have violated the requirements
12 of a state or federal labor, tax or employee benefit law or
13 rule.

14 Section 22. [NEW MATERIAL] HEARING--PENALTIES.--

15 A. A person who is denied a license or registration
16 or who has a license or registration suspended or revoked shall
17 be entitled to a hearing before the department if, within
18 twenty days after the denial, suspension or revocation, a
19 request for a hearing is received by the department. The
20 procedures of the Uniform Licensing Act shall be followed
21 pertaining to the hearing to the extent that they do not
22 conflict with the provisions of the Security Guard Act.

23 B. In accordance with the provisions of the Uniform
24 Licensing Act, and in addition to other penalties provided by
25 law, the department may impose the following:

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1 (1) for a violation of the Security Guard Act,
2 a civil penalty not to exceed one thousand dollars (\$1,000) for
3 each violation; and

4 (2) against a person who is found by the
5 department to be engaging in a practice regulated by the
6 department without an appropriate license or registration,
7 civil penalties not to exceed one thousand dollars (\$1,000).

8 Section 23. [NEW MATERIAL] LICENSE NOT TRANSFERABLE.--

9 A. A license or registration issued pursuant to the
10 Security Guard Act shall not be transferred or assigned.

11 B. The department shall adopt by rule procedures
12 for changes in the name or management of a private patrol
13 company. If the private patrol company fails to comply with
14 the procedures established by department rule, the private
15 patrol company shall be considered to be operating without a
16 license.

17 Section 24. [NEW MATERIAL] LOCAL REGULATIONS.--The
18 provisions of the Security Guard Act shall not prevent the
19 local authorities of any city, county or city and county by
20 ordinance and within the exercise of the police power of such
21 city, county or city and county from imposing local ordinances
22 upon any street patrol special officer or upon any person
23 licensed within the scope of the Security Guard Act if the
24 ordinances are consistent with that act.

25 Section 25. [NEW MATERIAL] FUND ESTABLISHED.--

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1 A. The "security guard fund" is created in the
2 state treasury.

3 B. All license and registration fees received by
4 the department pursuant to the Security Guard Act shall be
5 deposited in the fund and are appropriated to the department to
6 be used for the administration and implementation of that act.

7 C. The state treasurer shall invest the fund as
8 other state funds are invested, and all income derived from
9 investment of the fund shall be credited to the fund.

10 D. All balances in the fund shall remain in the
11 fund and shall not revert to the general fund.

12 E. The department shall administer the fund, and
13 money in the fund shall be expended by warrant issued by the
14 secretary of finance and administration on vouchers signed by
15 the superintendent of regulation and licensing.

16 F. No more than five percent of the fund shall be
17 used by the department for administration of the fund.

18 Section 26. [NEW MATERIAL] FIREARMS.--A private patrol
19 operator, a level three security guard or a private patrol
20 operations manager may carry a firearm upon successful
21 completion of the mandatory firearm training required by rules
22 of the department.

23 Section 27. [NEW MATERIAL] PENALTIES.--

24 A. A person who engages in a business regulated by
25 the Security Guard Act who fraudulently makes a representation

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1 as being a licensee or registrant is guilty of a misdemeanor
2 and if convicted shall be sentenced pursuant to Section 31-19-1
3 NMSA 1978.

4 B. An individual who fraudulently represents that
5 the individual is employed by a licensee is guilty of a petty
6 misdemeanor and if convicted shall be sentenced pursuant to
7 Section 31-19-1 NMSA 1978.

8 C. A person who violates a mandatory requirement,
9 as set forth by the department in rule, of the Security Guard
10 Act is guilty of a petty misdemeanor, except as provided in
11 Subsection A of this section, and, if convicted, shall be
12 sentenced pursuant to Section 31-19-1 NMSA 1978.

13 Section 28. [NEW MATERIAL] RECIPROCITY.--

14 A. The department may enter into a reciprocity
15 agreement with another state for the purpose of licensing or
16 registering applicants to perform activities regulated by the
17 Security Guard Act.

18 B. An applicant from another state at the time of
19 application for licensure or registration in New Mexico shall
20 be licensed or registered in that other state to perform the
21 services for which the applicant is seeking a New Mexico
22 license or registration.

23 C. The department may develop rules that allow for
24 reciprocity on a temporary or limited basis without requiring
25 an applicant licensed or registered in another state subject to

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1 a reciprocity agreement to be licensed or registered in New
2 Mexico; provided that the state of licensure or registration:

3 (1) has licensure or registration requirements
4 that meet or exceed those of New Mexico;

5 (2) has no record of disciplinary action taken
6 against the applicant in the last year; and

7 (3) can verify that the applicant has engaged
8 in activities for at least one year in the state with
9 reciprocity that are required to be licensed or registered
10 pursuant to the Security Guard Act.

11 Section 29. [NEW MATERIAL] BACKGROUND INVESTIGATIONS.--

12 A. The department shall adopt rules that:

13 (1) are developed in conjunction with the
14 department of public safety that require background
15 investigations of all persons licensed or registered pursuant
16 to the Security Guard Act to determine if the person has a
17 criminal history;

18 (2) require all applicants for licensure or
19 registration to be fingerprinted on two fingerprint cards or
20 electronically as required for submission to the federal bureau
21 of investigation to conduct a national criminal history
22 investigation and for submission to the department of public
23 safety to conduct a state criminal history investigation;

24 (3) provide for an applicant to inspect or
25 challenge the validity of the record developed by the

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1 background investigation if the applicant is denied a license
2 or registration; and

3 (4) establish a fee for fingerprinting and
4 conducting a background investigation for an applicant.

5 B. Arrest record information received from the
6 federal bureau of investigation and the department of public
7 safety shall be privileged and shall not be disclosed to
8 individuals not directly involved in the decision affecting the
9 specific applicant or employee.

10 C. The applicant shall pay the cost of obtaining
11 criminal history information from the federal bureau of
12 investigation and the department of public safety.

13 D. Electronic live scans may be used for conducting
14 criminal history investigations.

15 Section 30. Section 61-27B-2 NMSA 1978 (being Laws 1993,
16 Chapter 212, Section 2, as amended) is amended to read:

17 "61-27B-2. DEFINITIONS.--As used in the Private
18 Investigations Act:

19 A. "armored car company" means a company that
20 knowingly and willingly transports money and other negotiables
21 for a fee or other remuneration;

22 B. "bodyguard" means an individual who physically
23 performs the mission of personal security for another
24 individual;

25 C. "branch office" means an office of a private

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1 investigation company or a private patrol company physically
2 located in New Mexico and managed, controlled or directed by a
3 private investigations manager or private patrol operations
4 manager;

5 D. "client" means an individual or legal entity
6 having a contract that authorizes services to be provided in
7 return for financial or other consideration;

8 E. "conviction" means any final adjudication of
9 guilty, whether pursuant to a plea of guilty or nolo contendere
10 or otherwise and whether or not the sentence is deferred or
11 suspended;

12 F. "department" means the regulation and licensing
13 department;

14 G. "individual" means a single human being;

15 H. "legal business entity" means a sole
16 proprietorship, corporation, partnership, limited liability
17 company, limited liability partnership or other entity formed
18 for business purposes;

19 I. "licensee" means a person licensed pursuant to
20 the Private Investigations Act;

21 J. "polygraph examiner" means an individual
22 licensed by the department to engage in the practice of
23 polygraphy;

24 K. "polygraphy" means the process of employing an
25 instrument designed to graphically record simultaneously the

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1 physiological changes in human respiration, cardiovascular
2 activity, galvanic skin resistance or reflex for the purpose of
3 lie detection and includes the reading and interpretation of
4 polygraphic records and results or any other device used to
5 measure truthfulness;

6 L. "private investigation company" means a legal
7 business entity that provides private investigation services,
8 the location of which may be within or outside of the state,
9 provided that the private investigation services are performed
10 within New Mexico;

11 M. "private investigator" means an individual who
12 is licensed by the department to engage in business or who
13 accepts employment to conduct an investigation pursuant to the
14 Private Investigations Act to obtain information regarding:

15 (1) crime or wrongs done or threatened against
16 the United States or any state or territory of the United
17 States;

18 (2) a person;

19 (3) the location, disposition or recovery of
20 lost or stolen property;

21 (4) the cause or responsibility for fires,
22 losses, accidents or damage or injury to persons or properties;

23 (5) the securing of evidence to be used before
24 a court, administrative tribunal, board or investigating
25 committee or for a law enforcement officer; or

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1 (6) the scene of a motor vehicle accident or
2 evidence related to a motor vehicle accident;

3 N. "private investigations employee" means an
4 individual who is registered by the department to work under
5 the direct control and supervision of a private investigator
6 for a private investigation company;

7 O. "private investigations manager" means an
8 individual who:

9 (1) is licensed as a private investigator and
10 is issued a license by the department as a private
11 investigations manager;

12 (2) directs, controls or manages a private
13 investigation company for the owner of the company; and

14 (3) is assigned to and operates from the
15 private investigation company that the private investigations
16 manager is licensed to manage or from a branch office of that
17 private investigation company;

18 ~~P. "private patrol company" means a legal business~~
19 ~~entity, the location of which may be within or outside of the~~
20 ~~state, including an independent or proprietary commercial~~
21 ~~organization that provides private patrol operator services~~
22 ~~that are performed in New Mexico and the activities of which~~
23 ~~include employment of licensed private patrol operators or~~
24 ~~security guards;~~

25 Q. ~~"private patrol employee" means an individual~~

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1 ~~who is registered by the department to work under the direct~~
2 ~~control and supervision of a private patrol operator for a~~
3 ~~private patrol company;~~

4 R. ~~"private patrol operations manager" means an~~
5 ~~individual who:~~

6 (1) ~~is licensed as a private patrol operator~~
7 ~~or registered as a level three security guard and is issued a~~
8 ~~license by the department as a private patrol operations~~
9 ~~manager;~~

10 (2) ~~directs, controls or manages a private~~
11 ~~patrol company for the owner of the company; and~~

12 (3) ~~is assigned to and operates from the~~
13 ~~private patrol company that the private patrol operations~~
14 ~~manager is licensed to manage or from a branch office of that~~
15 ~~private patrol company;~~

16 S. ~~"private patrol operator" means an individual~~
17 ~~who is licensed by the department to:~~

18 (1) ~~conduct uniformed or nonuniformed services~~
19 ~~as a watchman, security guard or patrolman to protect property~~
20 ~~and persons on or in the property;~~

21 (2) ~~prevent the theft, unlawful taking, loss,~~
22 ~~embezzlement, misappropriation or concealment of goods, wares,~~
23 ~~merchandise, money, bonds, stocks, notes, documents, papers or~~
24 ~~property of any kind; or~~

25 (3) ~~perform the services required of a~~

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1 ~~security guard or security dog handler or provide security~~
2 ~~services for an armored car company;~~

3 ~~F. "proprietary commercial organization" means an~~
4 ~~organization or division of an organization that provides full-~~
5 ~~or part-time security guard services solely for itself] and~~

6 [U.] P. "registrant" means an individual registered
7 as a private investigations employee, a private patrol
8 operations employee or a security guard at any level.

9 [V. "security dog handler" means an individual who
10 patrols with dogs to detect illegal substances or explosives;

11 W. "security guard" means an individual who is
12 registered to engage in uniformed or nonuniformed services
13 under the direct control and supervision of a licensed private
14 patrol operator or a private patrol operations manager to
15 perform such security missions as watchman, fixed post guard,
16 dog handler, patrolman or other person to protect property or
17 prevent thefts; and

18 X. "special event" means a parade or other public
19 or private event of short duration requiring security.]"

20 Section 31. Section 61-27B-3 NMSA 1978 (being Laws 1993,
21 Chapter 212, Section 3, as amended) is amended to read:

22 "61-27B-3. LICENSE REQUIRED.--It is unlawful for an
23 individual to:

24 A. act as a private investigator, [~~private patrol~~
25 ~~operator, security guard~~] private investigations employee or

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1 private investigations manager [~~or private patrol operations~~
2 ~~manager~~] or to make any representation as being a licensee or
3 registrant unless the individual is licensed by the department
4 pursuant to the Private Investigations Act;

5 B. render physical protection for remuneration as a
6 bodyguard unless the individual is licensed as a private
7 investigator [~~or a private patrol operator~~] or under the
8 Security Guard Act;

9 C. continue to act as a private investigator,
10 [~~private patrol operator, security guard~~] private
11 investigations employee or private investigations manager [~~or~~
12 ~~private patrol operations manager~~] if the individual's license
13 issued pursuant to the Private Investigations Act has expired;

14 D. falsely represent that the individual is
15 employed by a licensee; or

16 E. practice polygraphy for any remuneration without
17 a license issued by the department in accordance with the
18 Private Investigations Act."

19 Section 32. Section 61-27B-4 NMSA 1978 (being Laws 1993,
20 Chapter 212, Section 4, as amended) is amended to read:

21 "61-27B-4. PERSONS EXEMPTED.--

22 A. As used in this section, "temporary" means a
23 period of time not to exceed the duration of one private event
24 or one school or nonprofit organization event, as described in
25 Paragraphs (2) and (3) of Subsection B of this section.

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1 B. The Private Investigations Act does not apply
2 to:

3 (1) an individual employed exclusively and
4 regularly by one employer in connection with the affairs of
5 that employer; [~~provided that the individual patrols or~~
6 ~~provides security only on the premises of the employer as~~
7 ~~limited by the employer;~~

8 ~~(2) an individual employed exclusively to~~
9 ~~provide temporary security at a private event that is not open~~
10 ~~to the public;~~

11 ~~(3) individuals providing temporary security~~
12 ~~at athletic or other youth events and where the events occur~~
13 ~~under the auspices of a public or private school or a nonprofit~~
14 ~~organization;~~

15 ~~(4)]~~ (2) an attorney licensed in New Mexico
16 conducting private investigations while engaged in the practice
17 of law;

18 ~~(5)]~~ (3) an officer or employee of the United
19 States or this state or a political subdivision of the United
20 States or this state while that officer or employee is engaged
21 in the performance of the officer's or employee's official
22 duties;

23 ~~(6)]~~ (4) a person engaged exclusively in the
24 business of obtaining and furnishing information concerning the
25 financial rating of persons;

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1 [~~(7)~~] (5) a charitable philanthropic society
2 or association duly incorporated under the laws of this state
3 that is organized and maintained for the public good and not
4 for private profit;

5 [~~(8)~~] (6) a licensed collection agency or an
6 employee of the agency while acting within the scope of
7 employment while making an investigation incidental to the
8 business of the agency, including an investigation of the
9 location of a debtor or the debtor's property;

10 [~~(9)~~] (7) admitted insurers, adjusters, agents
11 and insurance brokers licensed by the state performing duties
12 in connection with insurance transactions by them; or

13 [~~(10)~~] (8) an institution subject to the
14 jurisdiction of the director of the financial institutions
15 division of the department or the comptroller of currency of
16 the United States."

17 Section 33. Section 61-27B-5 NMSA 1978 (being Laws 1993,
18 Chapter 212, Section 5, as amended) is amended to read:

19 "61-27B-5. ADMINISTRATION OF ACT--RULES.--

20 A. The department shall enforce and administer the
21 provisions of the Private Investigations Act.

22 B. The department shall keep a record of each
23 individual licensee.

24 C. The department shall adopt and enforce rules
25 necessary to carry out the provisions of the Private

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1 Investigations Act, including establishing professional ethical
2 standards.

3 D. The department shall adopt rules regarding:

4 (1) licensing private investigators, private
5 investigations managers, private investigation companies
6 [~~private patrol operators, private patrol operations managers,~~
7 ~~private patrol employees~~] and polygraph examiners;

8 (2) registering private investigations
9 employees [~~security guards and private patrol employees~~];

10 (3) establishing minimum training and
11 educational standards for licensure and registration;

12 (4) establishing continuing education
13 requirements;

14 (5) establishing and operating a branch
15 office;

16 (6) creating a policy on reciprocity with
17 other states and territories of the United States; and

18 [~~(7) providing permits for security guards for~~
19 ~~special events; and~~

20 ~~(8)] (7) conducting background
21 investigations."~~

22 Section 34. Section 61-27B-6 NMSA 1978 (being Laws 2007,
23 Chapter 115, Section 6) is amended to read:

24 "61-27B-6. PRIVATE INVESTIGATIONS ADVISORY BOARD--
25 CREATED--MEMBERS.--

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1 A. The "private investigations advisory board" is
2 created.

3 B. The superintendent of regulation and licensing
4 shall appoint members to the advisory board to assist in the
5 conduct of the examination process for licensees and
6 registrants and to assist the department in other manners as
7 requested by the superintendent or provided for in rules of the
8 department.

9 C. The advisory board members shall consist of at
10 least the following:

11 (1) two private investigators;

12 (2) one private [~~patrol operator~~]
13 investigations manager;

14 (3) one polygraph examiner; and

15 (4) one member of the public.

16 D. Members of the advisory board shall be
17 reimbursed pursuant to the Per Diem and Mileage Act and shall
18 receive no other compensation, perquisite or allowance for each
19 day spent in the discharge of their duties.

20 E. The public member of the advisory board or the
21 public member's spouse shall not:

22 (1) have been licensed pursuant to the Private
23 Investigations Act, [~~the Private Investigators and Polygraphers~~
24 ~~Act~~] the Security Guard Act or any prior similar statutory
25 provisions; or

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1 (2) have a direct or indirect financial
2 interest in a private investigation company, private patrol
3 company, polygraph business or a related business."

4 Section 35. Section 61-27B-20 NMSA 1978 (being Laws 2007,
5 Chapter 115, Section 20) is amended to read:

6 "61-27B-20. FEES.--

7 A. The department shall establish a schedule of
8 reasonable fees as follows:

9 (1) private investigator fees:

10 (a) application fee, not to exceed one
11 hundred dollars (\$100);

12 (b) initial private investigator's
13 license fee or license renewal fee, not to exceed three hundred
14 dollars (\$300); and

15 (c) initial private investigations
16 manager license fee or license renewal fee, not to exceed two
17 hundred dollars (\$200);

18 [~~(2) private patrol operator fees:~~

19 ~~(a) application fee, not to exceed one~~
20 ~~hundred dollars (\$100);~~

21 ~~(b) initial private patrol operator's~~
22 ~~license fee or license renewal fee, not to exceed three hundred~~
23 ~~dollars (\$300); and~~

24 ~~(c) initial private patrol operations~~
25 ~~manager license fee or license renewal fee, not to exceed two~~

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1 ~~hundred dollars (\$200);~~

2 ~~(3) security guard fees:~~

3 ~~(a) level one or level two security~~
4 ~~guard registration fee or registration renewal fee, not to~~
5 ~~exceed fifty dollars (\$50.00); and~~

6 ~~(b) level three security guard~~
7 ~~registration fee or registration renewal fee, not to exceed~~
8 ~~seventy-five dollars (\$75.00);~~

9 ~~(4)]~~ (2) polygraph examiners:

10 (a) application fee, not to exceed one
11 hundred dollars (\$100);

12 (b) initial polygraph examiner's license
13 fee or license renewal fee, not to exceed four hundred dollars
14 (\$400); and

15 (c) examination fee, not to exceed one
16 hundred dollars (\$100); and

17 ~~(5)]~~ (3) other fees applying to private
18 investigators [~~private patrol operators~~] and polygraph
19 examiners:

20 (a) change in license fee, not to exceed
21 two hundred dollars (\$200); and

22 (b) late fee on license or registration
23 renewals, not to exceed one hundred dollars (\$100).

24 ~~(c) special event permit fee, not to~~
25 ~~exceed one hundred dollars (\$100); and~~

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1 address of the licensee or registrant.

2 [F-] E. Failure to notify the department within
3 thirty days of changes required to be reported pursuant to this
4 section or failure to carry or display a registration as
5 required is grounds for suspension of a license or
6 registration."

7 Section 37. Section 61-27B-23 NMSA 1978 (being Laws 2007,
8 Chapter 115, Section 23) is amended to read:

9 "61-27B-23. GENERAL OPERATIONS PROVISIONS OF COMPANIES--
10 MANAGEMENT--LIABILITY FOR EMPLOYEES' CONDUCT--MAINTENANCE OF
11 RECORDS REQUIRED--REQUIRED AND PERMITTED ACTIVITIES--ALLOWED
12 CATEGORIES OF UNLICENSED EMPLOYEES.--

13 A. An owner of a private investigation company
14 providing services in New Mexico shall operate, direct, control
15 and manage that company provided that the owner is licensed as
16 a private investigator. An owner of a private investigation
17 company who is not licensed as a private investigator shall
18 employ a private investigator as a private investigations
19 manager and shall turn over the operation, direction, control
20 and management of the private investigation company to that
21 manager.

22 [~~B. An owner of a private patrol company providing~~
23 ~~services in New Mexico shall operate, direct, control and~~
24 ~~manage that company, provided that the owner is licensed as a~~
25 ~~private patrol operator or registered as a level three security~~

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1 ~~guard. An owner of a private patrol company who is not~~
2 ~~licensed as a private patrol operator or registered as a level~~
3 ~~three security guard shall employ a private patrol operations~~
4 ~~manager and shall turn over the operation, direction, control~~
5 ~~and management of the private patrol company to that manager.~~

6 ~~G.]~~ B. A private investigation company [~~or a~~
7 ~~private patrol company~~] shall not conduct business under a
8 fictitious name until the company has obtained the
9 authorization for use of the name from the department. The
10 department shall not authorize the use of a fictitious name
11 that may generate public confusion with the name of a public
12 officer or agency or the name of an existing private
13 investigation company. [~~or private patrol company.~~

14 ~~D.]~~ C. A private investigation company is liable
15 for the conduct of the company's employees, including the
16 conduct of its private investigations manager.

17 [~~E. A private patrol company is liable for the~~
18 ~~conduct of the company's employees, including the conduct of~~
19 ~~its private patrol operations manager.~~

20 ~~F.]~~ D. A private investigation company [~~or a~~
21 ~~private patrol company~~] shall maintain records of the
22 qualifications, performance and training of all of its current
23 and former employees as required by the department. The
24 records are subject to inspection by the department upon
25 reasonable notice to the owner or private investigations

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1 manager; [~~or private patrol operations manager.~~

2 ~~G.~~ E. Except as otherwise provided in this
3 section, every employee of a licensed private investigation
4 company [~~or private patrol company~~] shall be licensed or
5 registered by the department as employees of the company with
6 which the employee is employed; provided, however, that a
7 licensee or registrant may work for more than one company
8 concurrently.

9 [~~H.~~] F. A licensee or registrant shall notify the
10 department in writing within thirty days of each change in the
11 licensee's or registrant's employment by filing an amendment to
12 the licensee's or registrant's application obtained from the
13 department. If a licensee or registrant ceases to be employed
14 by a private investigation company [~~or a private patrol~~
15 ~~company~~], the licensee or registrant shall notify the
16 department in writing within thirty days from the date the
17 licensee or registrant ceases employment with that company.

18 [~~I.~~] G. A private investigation company [~~or a~~
19 ~~private patrol company~~] shall notify the department within
20 thirty days of a change in ownership structure or, if a
21 corporation, a change in the membership of the board of
22 directors.

23 [~~J.~~] H. Employees of a private investigation
24 company [~~or a private patrol company~~] who are engaged
25 exclusively to perform stenographic, typing, word processing,

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1 secretarial, receptionist, accounting, bookkeeping, information
2 technology or other business applications or support functions
3 and who do not perform the work of a private investigator [~~a~~
4 ~~private patrol operator or a security guard~~] are not required
5 to be licensed or registered pursuant to the Private
6 Investigations Act.

7 [~~K-~~] I. An individual who is not licensed or
8 qualified to be employed as a private investigations manager
9 [~~or a private patrol operations manager~~] shall not be employed
10 to perform the duties required of [~~those managers~~] that
11 manager."

12 Section 38. Section 61-27B-24 NMSA 1978 (being Laws 1993,
13 Chapter 212, Section 11, as amended) is amended to read:

14 "61-27B-24. BOND REQUIRED.--

15 A. A private investigation company shall file with
16 the department a surety bond in the amount of ten thousand
17 dollars (\$10,000) executed by a surety company authorized to do
18 business in this state.

19 B. The owner or the chief executive officer of a
20 private investigation company that provides personal protection
21 or bodyguard services [~~or the owner or the chief executive~~
22 ~~office of a private patrol company~~] shall maintain a general
23 liability certificate of insurance in an amount required by the
24 department.

25 C. A surety bond in the amount of ten thousand

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1 dollars (\$10,000) or a general liability certificate of
2 insurance executed and filed with the department pursuant to
3 the Private Investigations Act shall remain in force until the
4 surety company issuing the bond or the certificate has
5 terminated future indemnity by notice to the department."

6 Section 39. Section 61-27B-25 NMSA 1978 (being Laws 1993,
7 Chapter 212, Section 12, as amended) is amended to read:

8 "61-27B-25. PROHIBITED ACTS.--

9 A. A licensee or registrant may divulge to a law
10 enforcement officer or district attorney, the attorney general
11 or the attorney general's representatives information the
12 licensee or registrant acquires concerning a criminal offense,
13 but the licensee or registrant shall not divulge to any other
14 person, except as the licensee or registrant is required by
15 law, information acquired by the licensee or registrant except
16 at the direction of the licensee's or registrant's employer or
17 the client for whom the information was obtained.

18 B. No licensee or registrant shall knowingly make a
19 false report to the licensee's or registrant's employer or the
20 client for whom the information was being obtained.

21 C. No written report shall be submitted to a client
22 except by the licensee, or a person authorized by the licensee,
23 and the person submitting the report shall exercise diligence
24 in ascertaining whether the facts and information of the report
25 are true and correct.

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1 D. No private investigator, private investigations
2 manager or private investigations employee shall use a badge in
3 connection with the official activities of the licensee's or
4 employee's employment for a private investigation company.

5 E. No licensee or registrant shall use a title or
6 wear a uniform, use an insignia, use an identification card or
7 make a statement with the intent to give an impression that the
8 licensee or registrant is connected in any way with the federal
9 or state government or a political subdivision of either.

10 ~~[F. No private patrol operator licensee, private~~
11 ~~patrol operations manager or level three security guard shall~~
12 ~~use a badge except when engaged in guard or patrol work and~~
13 ~~while wearing a uniform.~~

14 ~~G.]~~ F. No licensee or registrant shall appear as an
15 assignee party in a proceeding involving a claim and delivery
16 action to recover or possess property or action for foreclosing
17 a chattel mortgage, mechanic's lien, materialman's lien or any
18 other lien.

19 ~~[H.]~~ G. A polygraph examiner shall not ask
20 questions during the course of a polygraph examination relative
21 to sexual affairs of an examinee, the examinee's race, creed,
22 religion or union affiliation or an activity not previously and
23 specifically agreed to by written consent."

24 Section 40. Section 61-27B-26 NASA 1978 (being Laws 1993,
25 Chapter 212, Section 13, as amended) is amended to read:

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1 "61-27B-26. DENIAL, SUSPENSION OR REVOCATION OF LICENSE
2 OR REGISTRATION.--In accordance with procedures contained in
3 the Uniform Licensing Act, the department may deny, suspend or
4 revoke a license or registration held or applied for under the
5 Private Investigations Act or reprimand or place on probation a
6 licensee or registrant upon grounds that the licensee,
7 registrant or applicant:

8 A. made a false statement or gave false information
9 in connection with an application for a license or registration
10 or renewal or reinstatement of a license or registration;

11 B. violated a provision of the Private
12 Investigations Act;

13 C. violated a rule of the department adopted
14 pursuant to the Private Investigations Act;

15 D. has been convicted of a felony or any crime
16 involving dishonesty or illegally using, carrying or possessing
17 a deadly weapon;

18 E. impersonated or permitted or aided and abetted
19 an employee of a private investigation company [~~or private~~
20 ~~patrol company~~] to impersonate a law enforcement officer or
21 employee of the United States or of a state or political
22 subdivision of either;

23 F. committed or permitted an employee of a private
24 investigation company [~~or a private patrol company~~] to commit
25 an act while the license or registration of the person licensed

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1 or registered pursuant to the Private Investigations Act was
2 expired that would be cause for the suspension or revocation of
3 a license or registration or grounds for the denial of an
4 application for a license or registration;

5 G. willfully failed or refused to render to a
6 client services or a report as agreed between the parties, for
7 which compensation has been paid or tendered in accordance with
8 the agreement of the parties;

9 H. committed assault, battery or kidnaping or used
10 force or violence on a person without justification;

11 I. knowingly violated or advised, encouraged or
12 assisted the violation of a court order or injunction in the
13 course of business of the licensee or registrant;

14 J. knowingly issued a worthless or otherwise
15 fraudulent payroll check that is not redeemed within two days
16 of denial of payment by a bank;

17 K. has been chronically or persistently inebriated
18 or addicted to the illegal use of dangerous or narcotic drugs;

19 L. has been adjudged mentally incompetent or insane
20 by regularly constituted authorities;

21 M. while unlicensed, committed or aided and abetted
22 the commission of any act for which a license is required under
23 the Private Investigations Act; or

24 N. has been found to have violated the requirements
25 of a state or federal labor, tax or employee benefit law or

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1 rule."

2 Section 41. Section 61-27B-28 NMSA 1978 (being Laws 1993,
3 Chapter 212, Section 16, as amended) is amended to read:

4 "61-27B-28. LICENSE NOT TRANSFERABLE.--

5 A. A license or registration issued pursuant to the
6 Private Investigations Act shall not be transferred or
7 assigned.

8 B. The department shall adopt by rule procedures
9 for changes in the name or management of a private
10 investigation company [~~or private patrol company~~]. If the
11 private investigation company [~~or private patrol company~~] fails
12 to comply with the procedures established by department rule,
13 the private investigation company [~~or private patrol company~~]
14 shall be considered to be operating without a license."

15 Section 42. Section 61-27B-29 NMSA 1978 (being Laws 1993,
16 Chapter 212, Section 17) is amended to read:

17 "61-27B-29. LOCAL REGULATIONS.--The provisions of the
18 Private [~~Investigators and Polygraphers~~] Investigations Act
19 shall not prevent the local authorities of any city, county or
20 city and county by ordinance and within the exercise of the
21 police power of such city, county or city and county from
22 imposing local ordinances upon any street patrol special
23 officer or upon any person licensed within the scope of the
24 Private [~~Investigators and Polygraphers~~] Investigations Act if
25 the ordinances are consistent with that act."

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1 Section 43. Section 61-27B-31 NMSA 1978 (being Laws 2007,
2 Chapter 115, Section 31) is amended to read:

3 "61-27B-31. FIREARMS.--A private investigator [~~a private~~
4 ~~patrol operator~~] or a private investigations employee [~~a level~~
5 ~~three security guard or a private patrol operations employee~~]
6 may carry a firearm upon successful completion of the mandatory
7 firearm training required by rules of the department."

8 Section 44. TEMPORARY PROVISION--TRANSITION.--

9 A. On July 1, 2009 and thereafter, a private patrol
10 operator, private patrol company, private patrol operations
11 manager or security guard licensed, registered or authorized to
12 perform an activity pursuant to the Private Investigations Act
13 shall be subject to the Security Guard Act and shall be deemed
14 to be licensed, registered or authorized pursuant to the
15 Security Guard Act until the first license, registration or
16 authorization renewal opportunity occurs pursuant to the
17 Security Guard Act, at which time that entity or individual
18 shall be subject to the renewal provisions of, and rules
19 promulgated pursuant to, that act.

20 B. On July 1, 2009 and thereafter, all rules
21 promulgated pursuant to the Private Investigations Act that
22 apply to a private patrol operator, private patrol company,
23 private patrol operations manager or security guard shall
24 remain in effect until the regulation and licensing department
25 promulgates rules to implement the Security Guard Act.

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1 C. Money in the private investigations fund that is
2 attributable to private patrol operators, private patrol
3 companies, private patrol operations managers and security
4 guards is transferred on July 1, 2009 to the security guard
5 fund.

6 D. A disciplinary proceeding initiated against a
7 private patrol operator, private patrol company, private patrol
8 operations manager or security guard pursuant to the Private
9 Investigations Act prior to July 1, 2009 shall continue
10 pursuant to that act until the conclusion of the proceedings,
11 including the exhaustion of a judicial appeal that may be made.

12 E. All obligations of the private investigations
13 fund and the private investigations advisory board attributable
14 to private patrol operators, private patrol companies, private
15 patrol operations managers or security guards incurred or
16 imposed prior to July 1, 2009 pursuant to the Private
17 Investigations Act are transferred to and shall become
18 obligations of the security guard fund or the security guard
19 advisory board, as appropriate, on July 1, 2009. All
20 obligations of the department attributable to private patrol
21 operators, private patrol companies, private patrol operations
22 managers or security guards pursuant to the Private
23 Investigations Act shall continue as obligations of the
24 department pursuant to the Security Guard Act.

25 Section 45. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--

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1 The security guard advisory board is terminated on July 1, 2013
2 pursuant to the Sunset Act. The board shall continue to
3 operate according to the provisions of the Security Guard Act
4 until July 1, 2014. Effective July 1, 2014, Sections <x
5 through y> of this 2009 act are repealed.

6 Section 46. REPEAL.--Sections 61-27B-10 through
7 61-27B-12, 61-27B-15 through 61-27B-19 and 61-27B-35 NMSA 1978
8 (being Laws 2007, Chapter 115, Sections 10 through 12, 15
9 through 19 and 36) are repealed.

10 Section 47. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2009.