



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

LICENSE SECURITY GUARDS

RECEIVED

APR 17 1989

House Bill 4274

Sponsor: Rep. Joseph Young, Jr.

Committee: State Affairs

Complete to 3-9-89

Mich. State Law Library

***A SUMMARY OF HOUSE BILL 4274 AS
INTRODUCED 2-22-89***

House Bill 4274 would repeal the Private Security Guard Act, which requires alarm system agencies and security guards, among other businesses, to be licensed by the Department of State Police, and would create the Private Security Act, to license and regulate under the Department of Licensing and Regulation persons engaged in the business of providing or maintaining security (defined generally as the protection of person, real property, or items of value). Under the bill, the department would be required to employ agents to enforce compliance with the bill. With respect to violations of the bill, the department and each agent employed by it would have all the powers of a peace officer. The prosecuting attorney of the county in which there was a conviction for a violation of the bill would be required to file a report with the department within ten days after the conviction, showing the conviction date, the name of the person convicted, and the nature of the charge. Failure to comply with federal and state employment laws would result in the denial, suspension, or revocation of a license. The provisions of the bill would not apply to persons employed by or elected by a federal, state, or local law enforcement agency while engaged in the performance of their official duties. The provisions of the bill would apply to those employed by a federal, state, local, college, university, or school district law enforcement agency who offered their services as security watchmen, security officers, or as security personnel.

License applications. Under the bill, no individual would be permitted to engage in — or advertise that they engaged in — the business of providing security unless licensed to do so by the department. Those persons already licensed under the Private Security Guard Act would not be required to comply with the bill's requirements until their licenses required renewal. Licenses would be valid for three years from the date of issuance, and would be issued to an applicant who met the following requirements:

- Was at least 18 years of age.
- Possessed a high school education or a general educational development test certificate.
- At the time of application, and for not less than six months immediately preceding that date, was a resident of the state.
- Had no felony convictions for the five years immediately preceding the application date.
- Had no convictions for crimes involving intoxication or use of a controlled substance for the three years immediately preceding the date of application, or had not been convicted three or more times of an assaultive crime.
- Had not engaged in conduct that would be a violation of the bill for the five years immediately preceding the date of application.
- Had not been dishonorably discharged from a branch of the United States military service, within the five years immediately preceding the date of application, for the

commission of a crime involving moral turpitude, larceny or theft, possession or carrying of a dangerous weapon, or the use, possession, or sale of controlled substances.

- Was not employed as a law enforcement officer by a state, a political subdivision of a state, or the federal government.
- Had posted a surety bond in the sum of \$5,000 or a policy of insurance.
- Had not been adjudged a "person requiring treatment" (under the Mental Health Code) unless restored to health as provided by law.
- Had complied with the application requirements.

The applicant would also be required to have been either engaged in the security guard agency business as a corporate officer or partner for not less than three years, during which time he or she was directly involved in the business operations, or involved as a supervisor; have been, but no longer be employed in law enforcement in a full-time administrative capacity for not less than four years for a township, village, city, county, state, or for the federal government; or have been a full-time security employee for not less than two years, and possess a two-year degree or its equivalent in the field of security from an accredited college or university.

If the applicant were a corporation, the application would have to specify the name of the individual to whom the license would be issued, the name of the corporation, the date and place of its incorporation, the location of the corporation's principal place of business; and the location of the bureau, agency, subagency, office, or branch office for which the license was desired. The application would be accompanied by a certified copy of a certificate of incorporation and a statement signed by the president, secretary, and treasurer of the corporation verifying the accuracy of the application. The department could require that the application provide information demonstrating compliance with state and federal employment laws. Applicants would also be required, under the bill, to submit two recent photographs, not less than five references, and a nonrefundable filing fee of \$50, which would be applied to the license fee. The department would investigate the applicant's reputation for truth, honesty, integrity, competency, proper past business practices, and ethical dealing, and would also be required to receive the approval of the prosecuting attorney and the sheriff of the county where the applicant's principal office would be located. Should the prosecutor, sheriff, or chief law enforcement officer refuse to provide approval, they would be required to submit their reasons to the department in writing before the expiration of ten business days. The director could issue a license without this approval if the applicant could show the refusal to be unreasonable or without merit. Should any of these standards be found to be deficient, the application could be denied if documentation of the basis of the denial were provided to the applicant.

H.B. 4274 (3-9-89)

OVER

License fees and renewals. Under the bill, license fees would be \$300, with an additional fee of \$25 for branch office or subagency licensees. License fees would be nonrefundable unless applicants could show they were ineligible because they failed to meet the requirements of the bill, or by a showing of mistake, inadvertence, or error in the collection of the fee. Fees would not be refunded due to license suspension or revocation. The bill would require that the fee be accompanied by a \$5,000 surety bond or by an insurance policy naming the licensee and the state as co-insureds in the amount of \$20,000 in property damages, \$100,000 for injury to or death of one person, and \$200,000 for injuries to or deaths of more than one person arising out of the operation of a security guard agency. Licenses would specify the full name of the applicant, the location of the principal office or place of business, the location of the bureau, agency, subagency, office, or branch office, the date on which the license would expire, and the name of the individual filing the application. Under the bill, a security guard agency would have one principal individual, as named on the license, who would be responsible for compliance with the bill. The bill would require that licenses be posted in a conspicuous place in principal and branch offices, and that changes in the name or location of the licensee or of a branch office or subagency be reported in writing to the department not less than three days before the change became effective. The licensee would be required to return the old license within three business days after the date of change. Should the location change place the agency in another county, city or village, the department would not issue a new license until the county prosecutor and sheriff, or the chief law enforcement officer of the city or village, had been notified.

Under the bill, the department would prescribe the form and contents of agency identification cards. Only one agency identification card would be issued to the person named on a license, and that person would be responsible for the maintenance, custody, and control of the license and for the card. The card could not be let, loaned, sold or used in an unauthorized manner. Duplicate licenses or cards could be issued by the department upon application and for sufficient reasons shown.

A license could be renewed, if applied for within 60 days after the license expired, upon application and payment of a \$200 renewal fee and the filing of a renewal surety bond or insurance policy in the amount equivalent to that specified for original licenses. A renewal application received after the 60-day period following the expiration of the previous license would be considered a new application and the applicant would be subject to the licensure qualifications specified above. Renewals would be subject to the same approval by law enforcement officials as original license applications, and would be dated as of the expiration date of the previously existing license. Upon the death of the individual whose name appeared on the license, the business of a licensee could be carried on for 90 days by the surviving spouse or personal representative of the decedent's estate, if an individual licensee; by the surviving partner, if a partner; or by the officers, if an officer of a company, association, organization, or corporation. Authority to carry on the business would be conditional upon the department being notified of the death, in writing, within ten days following the licensee's death, by the person legally authorized to carry on the business. The department could allow the business to continue for more than 90 days, if necessary to complete any pending business commitments. The

department could also issue a temporary license for not more than 90 days' duration for the continued operation of an agency should a licensee become incapacitated or leave the agency. The responsible party or temporary licensee named by the licensee would be required to file an application within ten days. None of the above could be construed to restrict the sale of a business if the purchaser were otherwise qualified for licensure.

Revocation and suspension of licenses. Under the bill, the department could deny, suspend, or revoke a license, upon notice and hearing, if it determined that an applicant, licensee, or a manager, officer, director, or partner of the licensee did any of the following:

- Made a false statement or gave false information in a license application or renewal.
- Willfully violated the bill.
- While licensed, became ineligible for licensing by no longer meeting the application requirements;
- While licensed, knowingly employed an individual convicted of a felony, a misdemeanor incurring a prison term of more than 90 days, or a crime involving one or more of the following: moral turpitude; dishonesty or fraud; unauthorized divulging or selling of information or evidence; impersonation of a law enforcement officer or a local or federal government employee using, carrying, or possessing a dangerous weapon; intoxication; using, selling, or possessing a controlled substance; or assault or battery.

License suspension would be for not more than six months and would only be imposed after notice and a hearing. Should an agency continue in business after suspension, the department could revoke the license. Under the bill, the licensee would be required to surrender his or her license and agency identification card to the department within 30 days after the date of the receipt of a license revocation or suspension. Violation of this requirement would be a misdemeanor, punishable by imprisonment for not more than 10 days, or a fine of not more than \$1,000, or both.

Advertising. The bill would require that advertising performed by a licensee contain the licensee's business name as it appeared in department records. The word "officer" could not be used in an advertisement unless it were preceded by the word "security" or "guard." A licensee would not be allowed to use a designation, insignia, logo, or trade name that had not first been approved by the department, nor could a licensee use a designation, insignia, logo, or trade name that implied an association with the state, with another state, the federal government, or a political subdivision of the state. The bill would require a licensee, upon written order from the department, to discontinue advertising or the use of an advertisement, seal, or card that the department had determined could mislead the public; failure to comply with the order would be grounds for license suspension or revocation. A badge or insignia worn by a person regulated by the bill could not deceive or confuse the public or be similar to that of a law enforcement officer unless a deviation from the badge requirement were granted by written approval of the department. Under the bill, unlicensed persons who advertised their businesses as security guard agencies would be guilty of a misdemeanor, punishable by imprisonment for not more than ten days, or a fine of not more than \$1,000, or both.

Compliance standards for employees. Under the bill, a licensee could employ as many persons as he or she

considered necessary, and would be responsible for the conduct of each. An employee would be required to meet the following qualifications:

- Be at least 18 years of age.
- Have at least an eighth grade education or its equivalent.
- Have the ability to read and comprehend English relative to the security assignments of the job.
- Not have served a sentence for the commission of a felony during the five years immediately preceding the date of employment.
- Not have been convicted of a crime involving drunkenness or controlled substance abuse during the five years immediately preceding the date of employment.
- Not have been discharged from the United States military service for a crime involving moral turpitude, larceny or theft, the illegal use, possession, or sale of controlled substances, or the illegal possession or carrying of a dangerous weapon during the five years immediately preceding the date of employment.
- Not have been adjudged a "person requiring treatment" (under the Mental Health Code) unless restored to health as provided by law.
- Not have improperly used equipment or the position of a police officer outside the scope of employment as a police officer.

Licensees would be required, under the bill, to keep records on dates of employment, issue and expiration dates of identification cards, and employees' weapon licenses, and to make the records available to the department. False statements or representations made to the department regarding a person's employment or nonemployment would be considered cause for license suspension or revocation. A person falsely stating or representing that he or she was a licensee, security officer, or was employed by a licensee would be guilty of a misdemeanor. Persons employed solely as clerical employees, within the office of a security guard agency or proprietary security organization, would not be considered security personnel, except that they would be required to meet the above qualifications for employees. A law enforcement officer who was paid a compensation, fee, or reward by a licensee for security would be governed by the bill while employed by the licensee. The government or political subdivision granting the officer the power of arrest would be liable for an arrest made by the officer beyond the power of a private citizen. The bill would require employing licensees or parent companies to have classifiable fingerprints taken of individuals before employment and the issuance of an employment card. The fingerprints would be sent to the department, to be compared with its records, and with the records of other states. The department would be required to notify the licensee or parent company immediately if any record were found regarding the fingerprints, and to release criminal histories if the person to be employed had signed a waiver attached to the fingerprint card that authorized the release of criminal history information to the licensee or parent company.

Violations. The following acts would be considered misdemeanors under the bill:

- The manufacture or possession of a badge, identification card, or shield indicating that the holder was a licensee or a security guard agency, without department approval.
- The sale, display for sale, or possession of a badge, shield, identification card, or license, by which the public

might be misled into thinking that the holder was a licensee, security guard agency employee, public official, or law enforcement officer.

- The distribution of an identification card or license relative to the business of providing security, except as provided by the bill.

Each day the violation continued would be considered a separate offense. An unauthorized identification card or license would be subject to confiscation by a law enforcement officer of the state and turned over to the department.

Under the bill, the employees of a licensee or parent company would not be granted arrest powers beyond that of a private citizen. Licensed agencies having arrest power before the effective date of the bill, however, could retain that power if they continued to comply with the training requirements, operational procedures, and policy directives in effect on the bill's effective date. Past and present employees of a licensee who divulged information relating to their work to anyone other than their employer, or as directed by their employer, or who willfully made a false report to an employer, would be guilty of a misdemeanor, punishable by imprisonment for not more than ten days, or a fine of not more than \$100, or both. Managers, executives, or employees of a licensee who willfully sold, divulged, or otherwise disclosed information to persons other than intended by the licensee, except as required by law, would also be guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$1,000, or both. The bill would require security guard agencies to obtain a private detective license in order to perform the services of a private detective or private investigator. Licensed private detectives or private investigators would similarly be required to be licensed under the bill and to pay a \$200 license fee to engage in the business of providing security.

Uniformed security personnel. Under the bill, uniformed security personnel would be designated as security watchmen or security officers, and would be required to complete the minimum training program or competency examination administered by the department. On completion of training, the department would issue a numbered permanent security personnel identification card upon receiving from the employer certification of training, two recent photographs of the person seeking the card, and a nonrefundable \$10 filing fee. Security officers would, in addition, be required to submit certification that they had achieved proficiency in the use, handling, and marksmanship of firearms. A temporary identification card could be issued by the licensee pending the return of the permanent identification card. Persons employed as uniformed security personnel for two years preceding the bill's effective date would be issued a numbered permanent security personnel identification card upon submission of an application and a sworn notarized affidavit of the period of service, and would not be required to complete either the competency exam or the training.

Competency tests would be administered at least once a month in branch offices of the department and the test results would be provided to licensees and test candidates within five business days after the test date. A minimum training program of not less than ten hours, as approved by the department, would be required for certification as a security watchman. Ten percent of the program would be on-the-job training, and the rest classroom training. The training program would be extended to 14 hours in the

second full year after the bill became effective; 16 hours in the third full year; 18 hours in the fourth full year; and 20 hours in the fifth full year. A training program for certification as a security officer would be for 40 hours, ten percent of which would be on-the-job training, and the remainder classroom training. The program would be extended to 50 hours in the second full year after the bill became effective; 60 hours in the third full year; 70 hours in the fourth full year; and 80 hours in the fifth full year. Both training programs would include training in the minimum uniform requirements of the bill, limits of authority and employment, weapons restrictions, which persons or authorities were to be contacted in emergencies, agency structure affecting duties, courtesy and demeanor, and information on special assignments. The training required for security officers would include additional classroom training on firearm safety rules, firearm maintenance, marksmanship fundamentals, the legal aspects of the use of firearms and the consequences of using fatal force, and the permissible transportation of a firearm.

Under the bill, intentional falsification of an identification card or certificate of training would be considered a misdemeanor. The department could revoke an identification card under one or more of the following circumstances:

- The holder did not meet the employment qualifications outlined above.
- The holder, if a security officer, failed to submit annual certification from a training program of requalification in proficiency in the use of firearms.
- The holder did not appear on a licensee's employment roster for a continuous period of more than three years.

The bill would require employers of security personnel who had to possess, carry, or transport firearms to either furnish the personnel with firearms that were owned by and registered to the employer, or authorize the personnel to carry firearms owned by and registered to the security personnel. While transporting a firearm, security personnel would be required to be in uniform and to follow a direct route to and from the place where security was being provided. Under the bill, security personnel could carry a nightstick constructed solely of wood or plastic, or a nonlethal aerosol repellent, as described in the Michigan Penal Code. Nothing in the bill would be construed as to require security personnel to possess, carry, or transport a firearm during the course of their employment.

Under the bill, the security personnel of a licensee would be required to wear uniforms that conformed to the following standards, among others:

- Minimum requirements for a uniform would be a shirt, blouse, blazer, jacket, or outer garment that identified the wearer as a security guard or officer.
- Uniforms would have red shoulder patches sewn on with the full name of the security agency lettered in white; and a right breast patch with the word "security" lettered in white.
- Employees could wear an appropriate designation of rank, such as sergeant, on either or both sleeves.
- Caps would require department approval.
- Badges or shields would not be worn or displayed except in conjunction with the holder's duties, and would require department approval.
- A deviation from the uniform and patch requirements could be granted only upon written department approval.

- The word "police" would not appear on any uniform, badge, patch, identification card, correspondence, advertisement, insignia, or design.

A security guard agency employee whose employment had terminated and who failed, upon demand, to return the identification card, uniforms, and equipment issued by a former employer would be guilty of a misdemeanor, punishable by imprisonment for not more than ten days, or a fine of not more than \$100, or both.

Tie-bar. House Bill 4274 is tie-barred to House Bill 4272, which would provide for the licensing and regulation of alarm system agencies.