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PRIVATE SECURITY GUARD ACT; GENERAL AMENDMENTS

House Bill 5917

Sponsor: Rep. Alan Sanborn

Committee: Criminal Law and Corrections

Complete to 9-23-00

A SUMMARY OF HOUSE BILL 5917 AS INTRODUCED 6-21-00

The Private Security Guard Act of 1968 provides for the licensing of alarm system contractors and private security guard agencies and provides standards for employees of such licensees. House Bill 5917 would make general amendments to the act, as follows.

Title of act, terms and definitions. The title of the act would be changed to the "Private Security Business and Security Alarm Act". Definitions of regulated occupations and devices would also be amended. Current definitions of "alarm system", "alarm system agent", and "alarm system contractor" would be replaced by "security alarm system", "security alarm system agent", and "security alarm system contractor". References to "private police", "special police", "watchmen", and "patrol service agencies" would be deleted. Instead, the bill would use and define the terms "private security guard" and "private security police". A business engaged in providing alarm systems, private security guards, or private security police would be a "security business", subject to licensure and regulation under the act.

The definition of "security alarm system" would be expanded to include any system that can electronically cause an expected response by a law enforcement agency by means of activating an audible signal, visible signal, electronic notification, or video signal, or any combination of these, to a remote location.

Licenses. Under current law, the Department of State Police issues licenses to businesses regulated by the act. The bill would change certain criteria for licensure. With regard to licenses to conduct business as a security alarm system contractor, private security guard, private security police, or as a private security guard business:

– It would eliminate a requirement that a licensee be a U.S. citizen, and that he or she be a resident of the state.

– It would modify the current requirement that a licensee not have been under any sentence for the commission of a felony within the previous five years. The bill would eliminate reference to the five-year period in this provision. Further, it would require that a licensee not have been convicted, within the five years preceding the date of the application, of a felony or a misdemeanor involving dishonesty or fraud; unauthorized divulging or selling of information or evidence; impersonation of a law enforcement officer; illegally using or possessing a dangerous weapon; two or more alcohol related offenses; controlled substances offenses; or assault.

With regard to requirements for licensure as a private security guard or agency, the bill would increase the required experience, from 3 years to 4 years, gained as an employee of another licensed guard or agency.

With regard to requirements for licensure as a security alarm contractor, the bill would increase the required experience, from 3 years to 4 years, gained as an employee of another security alarm contractor business.

Requirements for information to be submitted for a business license, including financial information, would be modified. The bill would require that each applicant sign and verify the application, and that the application contain the name and principal business address of the person or business entity, location of any branch office, and certificate of incorporation of a business. Further, the bill would specify that the resident manager of a business applicant would have to submit two passport quality photographs of himself or herself (as individual applicants are required to do).

A license certificate would be in a form prescribed by the Department of State Police. The bill would delete language requiring a license to include specified information about the applicant, including name, location, and expiration date.

Currently, the act allows a license fee or application fee to be refunded if the applicant is shown to be ineligible to receive a license by failing to meet the requirements of the act. The bill would delete this provision and allow a fee to be refunded only if it were collected by error.

A requirement that the department issue an identification card to each resident officer or manager of a business licensed under the act would be modified to say that a card would be issued to each officer or manager upon request.

License renewal, late renewals. Licenses issued under the act may be renewed upon payment of a renewal fee. The bill would specify that a person who failed to renew a license on or before the expiration date could not engage in regulated activities. However, a person could renew the license within 30 days after its expiration by paying the license renewal fee and a late renewal fee of \$25. After expiration of the 30-day period, it would be necessary to re-apply for a license.

Temporary licenses. The bill would add provisions allowing the Department of State Police to issue a nonrenewable temporary license to an applicant. A temporary license could be issued only if the applicant had not previously been denied a license or had a license suspended or revoked. A temporary license would be valid while other required investigations and approvals were obtained (including the approval of the prosecuting attorney and sheriff of the applicant's county, a criminal history check, bonding requirements, and so forth). Fees for a temporary license would be the same as those for a regular license.

Bonds, insurance. Licensees under the act are required to post bond in the amount of \$5,000 for an individual licensee, and \$10,000 for a business. The bill would increase the required bond amount to \$25,000 for all applicants. In addition, current law allows an applicant to furnish an

insurance policy in lieu of a bond. The bill would increase the required amount of insurance for property damage from \$20,000 to \$25,000.

Dual licensing of private detectives. Current law allows a private detective or private investigator licensed under Public Act 285 of 1965 to perform the services of a private security guard or agency, and allows the payment of only one license fee to be licensed under both acts. This provision would be deleted under the bill.

License suspension, reinstatement. The bill would allow the department to suspend a license if the license failed to comply with any of the requirements of the act. Except in cases where the act requires license revocation, the bill would require the department to reinstate a suspended license upon its compliance with the act and the payment of a \$100 reinstatement fee.

License revocation. The bill would modify a provision allowing a license to be revoked because of certain criminal convictions. License revocation would be allowed in cases where a licensee or an employee of a licensee was convicted of a felony or misdemeanor involving dishonesty or fraud; unauthorized divulging or selling of information or evidence; impersonation of a law enforcement officer; illegally using or possessing a dangerous weapon; two or more alcohol related offenses; controlled substances offenses; or assault.

Requirements for employees. The bill would delete a provision that requires employees of licensees to not have been dishonorably discharged from the U.S. military. Further, the bill would require a licensee to keep in the state “adequate and complete personnel information” on its employees.

Current law requires licensees to request criminal background checks on their employees. The bill would require a licensee to obtain a complete and signed employment application for each individual for whom a name check is requested and conducted. The application would have to be retained for at least one year from the date of its submission. Further, the bill would add language specifying that a licensee or employee who uses a name check or results of a name check for purposes other than prospective employment would be guilty of a misdemeanor, punishable by a fine of up to \$1,000.

Uniforms, badges. Currently, the law includes specifications for uniforms and identifying patches worn by security personnel licensed under the act. The bill would amend these provisions to require that shoulder identification patches be at least 3 inches by 5 inches (rather than 2 inches by 3 inches), be half-moon in shape, and red and white in color. However, the department could, upon request, approve different colors. A patch would have to be worn on the right breast with the words “security guard” or “security technician”, as appropriate. Further, the bill would prohibit a person from wearing or displaying a badge or shield except while on duty as an employee of a licensee or while going to and from work. And, the bill would prohibit a person not employed as a security guard from displaying a badge or shield or wearing the uniform of a security guard. A violation would be a misdemeanor punishable by imprisonment for up to 93 days, a fine of up to \$500, or both.

Weapons. Licensees under the act are not permitted to carry a deadly weapon, but the act does not prevent a licensee from authorizing his or her employees to carry a “night stick constructed solely of wood”. The bill would instead refer to a “tactical baton that is commercially available”.

The act does not require licensing of private security guards employed to protect the property and employees of their employer, but permits voluntary licensing of such a private security police organization. The bill would delete language in the act that says that when an employer, under this provision, provides security employees with a pistol for the purpose of protecting the property of the employer, the pistol is considered the property of the employer and the employer must retain custody of it, except during the actual working hours of the employee.

Alarm systems. The bill would delete certain requirements pertaining to security alarm systems, including that an alarm system installed in a commercial or public building, or in a residence, utilize equipment and methods of installation equivalent to standards set by Underwriter’s Laboratory (UL), American National Standards Institute (ANSI), or other nationally recognized testing laboratory for that installation or for household alarm systems.

Violations, penalties. The act prohibits a person or company from engaging in the business practices regulated by the act unless licensed under the act. A violation is a misdemeanor, punishable by imprisonment for up to 90 days, a fine of up to \$1,000, or both. The act also prohibits a person from selling or providing a device that automatically calls a public service, utility, or police agency without the written permission of the agency. A violation is a misdemeanor, punishable by imprisonment for up to 90 days, a fine of up to \$100, or both. Under the bill, both of these violations would be felonies, punishable by imprisonment for up to four years, a fine of up to \$1,000, or both.

Currently, a violation of the act is a misdemeanor, punishable by imprisonment for up to 90 days, a fine of up to \$100, or both. The bill would amend this provision to increase the maximum fine to \$1,000, and to specify that this general penalty provision would apply except where another specific penalty is listed in the act.

In several instances, the bill would add a specific penalty for existing misdemeanors. (Without a specific penalty, the general penalty provision, described above, applies.) For the existing misdemeanor of failure to surrender a revoked license, the bill would specify that the offense would be punishable by imprisonment for up to 93 days, a fine of up to \$500, or both. For the existing misdemeanor of advertising an unlicensed business to be that of a security business licensed under the act, the bill would add a specific penalty of a fine of up to \$1,000. And, for the existing misdemeanor of falsely representing oneself as an agent of a licensed security business, the bill would specify that the offense would be punishable by imprisonment for up to 93 days, a fine of up to \$500, or both.

Repeals. The bill would repeal two sections of the act. One section deals with a “grandfather clause” for licensing of businesses in existence on the date the act took effect. The second repealed provision requires the owner of an alarm system experiencing more than four false alarms in a

calendar year to have the system inspected, and allows the department, after notice and a hearing, to order the owner to correct the system.

MCL 338.1051 et al.

Analyst: D. Martens

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.