

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA**



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 425 (as enrolled)  
Sponsor: Senator Philip E. Hoffman  
Senate Committee: Judiciary  
House Committee: Criminal Justice

**PUBLIC ACT 473 of 2002**

Date Completed: 4-1-03

**CONTENT**

**The bill amended the Private Security Business and Security Alarm Act to do all of the following:**

- **Transfer licensing responsibilities from the Department of State Police to the Department of Consumer and Industry Services (DCIS), except in regard to private security police.**
- **Increase license fees until October 1, 2004.**
- **Establish the "Security Business Fund" and require that fees collected under the Act be deposited into the Fund.**
- **Require criminal history checks of prospective employees who are direct providers of the security business.**
- **Require a licensee's employees to have at least a high school education.**

The bill also deleted references to a person in the definitions of "licensee" and "security alarm system contractor", and includes in those definitions a sole proprietorship and a limited liability company. ("Licensee" also includes a firm, company, partnership, or corporation licensed under the Act; and "security alarm system contractor" includes a firm, company, partnership, or corporation engaged in the installation, maintenance, alteration, monitoring, or servicing of security alarm systems or who responds to a security alarm system.)

The bill took effect on October 1, 2002.

Fees

Two-Year Increase

The bill increased fees for licensure, branch offices, and license renewal for the period October 1, 2002, through September 30,

2004. On October 1, 2004, the fees will revert to their previous levels. The bill states that these two-year fee changes "are considered necessary to cover the actual costs of the licensure program under this act and shall only be used for administration of that licensure program".

The bill requires the DCIS and the Department of State Police, by April 1, 2003, each to issue a report to the Appropriations subcommittees having jurisdiction over the DCIS or the State Police, on whether the fee changes are adequate to support the licensure program.

Licensure. Under the Act, when the Department (now the DCIS) is satisfied with the good character, competence, and integrity of an applicant, or of its individual members or officers, the Department must issue to the applicant a license upon the applicant's payment of a fee and filing of a bond.

Previously, the fee was \$200 for a person; \$300 for a private security guard firm, company, partnership, or corporation; and \$500 for a security alarm system contractor. Under the bill, between October 1, 2002, and October 1, 2004, the fee is \$1,000 for a sole proprietorship (rather than a "person"); \$1,500 for a private security guard firm, company, partnership, limited liability company, or corporation; or \$1,500 for a security alarm system contractor.

Branch Offices. The Act provides that a licensee may receive a license for a branch office following approval by the Department and the payment of an additional fee. Previously, the additional fee was \$50 for each private security guard branch office license and \$100 for each security alarm system contractor branch office license. The bill

increased those fees to \$250 and \$500, respectively, between October 1, 2002, and October 1, 2004.

Renewal. The Department may renew a license granted under the Act upon the licensee's application, payment of a fee, and filing of a renewal bond.

Previously, the renewal fee was \$100 for an individual; \$150 for a private security guard firm, company, partnership, or corporation; and \$250 for a security alarm system contractor. (Under Executive Order 9 of 2001, however, each of those fees was \$1,500 in fiscal year (FY) 2001-02.) Under the bill, between October 1, 2002, and October 1, 2004, the fee is \$1,000 for a sole proprietorship (rather than an "individual"); \$1,500 for a private security guard firm, company, partnership, limited liability company, or corporation; or \$1,500 for a security alarm system contractor.

The bill also deleted a requirement that the Department charge an additional \$25 for a late renewal.

#### Security Business Fund

The bill created the Security Business Fund within the State Treasury. The DCIS may spend money from the Fund, upon appropriation, only for the enforcement and administration of the Act. The Department must deposit all license fees collected under the Act into the Fund. The State Treasurer may receive money or other assets from any source for deposit into the Fund and must direct its investment. The State Treasurer must credit to the Fund any interest and earnings on Fund investments. Money in the Fund at the close of a fiscal year must remain in the Fund and be available for appropriation and expenditure by the DCIS in subsequent fiscal years.

#### Fingerprinting & Background Checks

Previously, a licensee had to have all prospective employees fingerprinted, and the fingerprints had to be submitted to the Department of State Police for processing and approval. The bill, instead, requires a licensee to have fingerprints taken of all prospective employees who are direct providers of the security business. The fingerprints must be submitted to the Department of State Police and the FBI for a State and national criminal

history background check. The fingerprints must be accompanied by a fingerprint processing fee in the amount prescribed by Section 3 of Public Act 120 of 1935, as well as any fees imposed by the FBI. (Public Act 120 prescribes a method for fingerprinting residents of the State. Section 3 allows the Department of State Police to charge a fee for taking and processing fingerprints and completing a criminal record check for employment- and licensing-related purposes. Previously, the maximum fee was \$15, although Executive Order 9 of 2001 raised the fee to \$30 for FY 2001-02. Public Act 463 of 2002 set the fee at \$30 until October 1, 2004.)

The bill requires the DCIS to use the results of the national criminal history background check, as returned by the FBI to the Department of State Police, to make a fitness determination. A licensee may not employ a person who is a direct provider of the security business before submitting fingerprints to the Department of State Police.

Under the Act, fingerprints of a licensee's employees may be taken by a law enforcement agency or any other person determined by the Department of State Police to be qualified to take fingerprints. If a licensee takes the fingerprints, that licensee must obtain training in taking fingerprints from the Department or a law enforcement agency or other person determined qualified by the Department. The bill deleted provisions allowing the Department to charge a fee of up to \$100 for training, requiring a licensee to submit a one-time \$15 processing fee for each person applying for employment, and allowing a local law enforcement agency to charge a fee of up to \$15 per person for the fingerprint process.

Previously, the Act required a licensee to request the Department of State Police to conduct a background check of each prospective employee based upon a name check, and required the Department to conduct the background check upon a written or telephonic request accompanied by a \$5 fee (which was \$15 for FY 2001-02, under Executive Order 9). Under the bill, the background check requirement applies to a prospective employee who is a direct provider of the security business. The Department of State Police must conduct the check upon a written, electronic, or telephonic request accompanied by a \$15 fee.

The bill allows a person to be provisionally employed as a security guard for up to 90 days based on a name check, pending final clearance based upon a fingerprint check. If approval is denied, the licensee may not employ that individual as a direct provider of the security business except upon receiving an approved fingerprint clearance. (Previously, these provisions applied to all employees of a licensee.)

(The Act defines "security business" as a person or business entity engaged in offering, arranging, or providing one or more of the following services: security alarm system installation, service, maintenance, alteration, or monitoring; private security guard; or private security police.)

#### Private Security Police

Under the bill, the Department of State Police must administer the licensure of private security police. The bill specifies that the Act's application, qualification, and enforcement provisions apply to private security police, except that the administration of those provisions must be performed by, and the payment of the appropriate fees must be paid to, the Department of State Police. The DCIS Director may promulgate rules jointly with the Department of the State Police to facilitate this bifurcation of authority.

The Act states that it does not require the licensure of any private security guards employed for the purpose of protecting the property and employees of their employer and generally maintaining security for their employer. Any person, firm, or corporation maintaining a private security police, however, may voluntarily apply for licensure. Under the bill, a business organization or educational institution maintaining a private security police also may voluntarily apply for licensure.

#### Other Provisions

Previously, employees of a licensee had to have at least an eighth grade education or its equivalent. Employees hired after the bill's effective date must have at least a high school diploma, a GED, or its equivalent.

The Act requires a licensee to keep and maintain in Michigan adequate and complete personnel information on all employees. The bill also requires each licensee, on a quarterly basis, to file a complete employee roster, in a manner described by the DCIS. The rosters

must be filed with the Department by April 15, July 15, October 15, and January 15 for the preceding quarter. Failure to submit accurate rosters will be cause for license suspension. A renewal application may not be processed if the DCIS has not received the quarterly roster for each quarter of the preceding two-year license period.

An applicant for a private security guard or agency license must have experience that meets one or more of the criteria listed in the Act. One of these is experience in the private security guard or agency business for at least three years. Under the bill, this condition applies to experience in another state. Another type of experience is law enforcement employment on a full-time basis for at least four years for a city, county, or state, or the U.S. government. The bill limits this to employment as a certified police officer.

The Act provides that the Department must require an applicant for licensure to obtain reference statements from at least five reputable citizens. The bill deleted a requirement that these citizens be Michigan residents.

The Act required the Department to investigate an applicant's "reputation for truth, honesty, integrity and ethical dealing" upon receiving an application. The bill, instead, requires the DCIS to investigate an applicant's "qualifications for licensure" upon receiving the application and application fee.

Under the Act, any change in the name or location of an agency or a branch office or subagency must be reported to the Department at least 10 days before the change becomes effective. Under the bill, a licensee's failure to notify the Department of a change in name or location may result in a license suspension.

Under the Act, shoulder identification patches must be worn on all uniform jackets, coats, and shirts, and include the name of the licensee or agency. Previously, shoulder identification patches or emblems could not be smaller than two inches by three inches. Under the bill, the shoulder patches or emblems must be at least three inches by five inches.

MCL 338.1052 et al.

Legislative Analyst: Suzanne Lowe

**FISCAL IMPACT**

The bill will generate approximately \$300,000 annually in additional license fee revenue for the two years the increased fees are authorized, which will be used to regulate the contractual security guard and alarm industry in the State. Under the previous fee structure, some of which was set by Executive Order 2001-9, license fee collections were estimated to reach \$250,000 for the 2001-02 fiscal year. Prior to the executive order, collections from these fees totaled approximately \$100,000 annually. The bill adjusts existing fees as shown in Table 1 through FY 2003-04, and then the fees will revert to the previous fee structure.

Commission on Law Enforcement Standards within the Department of State Police. To support this effort, \$50,000 of fee revenue is appropriated annually.

Fiscal Analyst: Bruce Baker  
Maria Tyszkiewicz

Table 1

Security Business Fee Increases

License - New	Prior Law	SB 425
Sole proprietorship	\$200 (statute)	\$1,000
Firm, company, partnership	\$300 (statute)	\$1,500
Alarm contractor	\$500 (statute)	\$1,500
Branch office-security guard	\$50 (statute)	\$250
Branch office-alarm	\$100 (statute)	\$500
License - Renewal		
Sole Proprietorship	\$1,500 (E.O. 2001-9)	\$1,000
Firm, company, partnership	\$1,500 (E.O. 2001-9)	\$1,500
Alarm contractor	\$1,500 (E.O. 2001-9)	\$1,500
Branch office-security guard	\$50 (statute)	\$250
Branch office-alarm	\$100 (statute)	\$500

The Department of Consumer and Industry Services will license and regulate the contractual security guard and alarm industry. There is appropriated annually \$450,000, including 6.0 FTEs, of fee revenue for the regulation of this industry.

The regulation of licensed private security police is administered by the Michigan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.