

P.L. 2004, CHAPTER 134, *approved August 31, 2004*
Senate, No. 1516 (*First Reprint*)

1 **AN ACT** concerning the regulation of security guards, supplementing
2 Title 45 of the Revised Statutes and amending P.L.1939, c.369 and
3 P.L.1971, c.342.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as the
9 "Security ¹[Guard] Officer¹ Registration Act."

10

11 2. (New section) As used in this act:

12 a. "Owner" or "operator" means an officer, director, member, sole
13 proprietor, partner or associate of a private security company.

14 b. "Security ¹[guard] officer¹" means any person who performs
15 any of the following functions or activities ¹as an employee, agent or
16 subcontractor of a security officer company as defined in subsection
17 c. of this section¹ for a fee, hire or reward, notwithstanding the fact
18 that other functions and activities may also be performed by the same
19 person for fee, hire or reward:

20 (1) protection of person or property, real or personal, from injury
21 or harm or for any other purpose whatsoever;

22 (2) deterrence, observation, detection or reporting of incidents and
23 activities for the purpose of preventing the theft, or the unlawful
24 taking, conversion, concealment or misappropriation of goods, wares,
25 merchandise, money, bonds, stocks, notes or other valuable
26 instruments, documents, papers or articles ¹[,];¹ or

27 (3) deterrence, observation, detection or reporting of incidents and
28 activities for the purpose of preventing any unauthorized or unlawful
29 activity, including but not limited to, robbery, burglary, arson, criminal
30 mischief, vandalism or trespass.

31 The term shall not mean or include, and nothing in this act shall
32 apply to, any law enforcement officer of this State, or any political
33 subdivision of the State, while in the actual performance of his duties.
34 For the purposes of this section, a law enforcement officer shall be
35 deemed to be in the actual performance of his duties if the law
36 enforcement officer is in uniform, or is exhibiting evidence of his
37 authority, is performing public safety functions on behalf of and as

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted June 7, 2004.

1 assigned by his chief of police or the chief law enforcement officer of
2 his law enforcement agency and is receiving compensation, if any,
3 from his law enforcement agency at the rates or stipends as are
4 established by law. A law enforcement officer shall not be deemed to
5 be in the actual performance of his duties, for the purposes of this
6 section, if the law enforcement officer is performing private security
7 functions or activities for a private employer while receiving
8 compensation for those duties from the private employer¹, and a law
9 enforcement officer shall not wear his uniform, or otherwise exhibit
10 evidence of his authority as a law enforcement officer, while
11 performing private security functions or activities for a private
12 employer¹.

13 c. "Security¹ [guard] officer¹ company" means any body, board,
14 person, firm, corporation, partnership, proprietorship, joint venture,
15 fund, authority or similar entity that is organized for the purpose of or
16 primarily¹ engages in the business of furnishing for a fee, hire, reward
17 or compensation one or more security¹ [guards] officers¹. The term
18 shall not mean or include, and nothing in this act shall apply to, any
19 board, body, commission or agency of the United States of America
20 or of this State or any other state, territory or possession of the United
21 States of America, or any county, municipality or school district or any
22 officer or employee solely, exclusively and regularly employed by any
23 of the foregoing. The term shall include any business of watch, guard
24 or patrol agency.

25 d. "Superintendent" means the Superintendent of the Division of
26 State Police in the Department of Law and Public Safety.

27

28 3. (New section) a. No person shall engage in the business of a
29 security¹ [guard] officer¹ company, or advertise or hold out a
30 business to be a security¹ [guard] officer¹ company, unless the
31 business is licensed by the superintendent as set forth in this section.
32 Any person who violates the provisions of this section shall be guilty
33 of a crime of the fourth degree.

34 b. An application to be licensed as a security¹ [guard] officer¹
35 company shall be submitted to the superintendent by each owner and
36 operator of the company, on a form and in a manner prescribed by the
37 superintendent, and shall contain the following information:

38 (1) the full name, age, which shall be at least 25 years, and
39 residence of the owners or operators of the security¹ [guard] officer¹
40 company;

41 (2) [verification]¹, in a manner satisfactory to the superintendent,
42 that the owners or operators are citizens of the United States

43 (3)¹ the full and complete employment history of the owners or
44 operators;

45 [(4)](3)¹ that the owners or operators have five years law

1 enforcement experience ¹and are no longer employed by or attached
2 in any capacity whatsoever to a law enforcement agency.¹ or five years
3 experience working ¹in a supervisory or management capacity¹ for a
4 licensed security ¹[guard] officer¹ company;

5 ¹~~[(5)](4)~~¹ the municipality and location of the security company's
6 principal place of business and any office, bureau, agency or
7 subdivision of the company; and

8 ¹~~[(6)](5)~~¹ such further information as the superintendent may
9 require to show the good character, competency and integrity of the
10 owners or operators of the security ¹[guard] officer¹ company.

11 Each application shall be accompanied by the written approval, for
12 each owner or operator of the security ¹[guard] officer¹ company, of
13 not less than five reputable citizens who have known the applicant for
14 at least three years preceding the date of application and who shall
15 certify that the applicant is a person of good moral character and
16 behavior.

17 Any person who shall knowingly make a false statement in or
18 knowingly omit any material information from the application required
19 by this subsection shall be guilty of a crime of the fourth degree in
20 addition to any other crime or offense specified by law.

21 c. No security ¹[guard] officer¹ company shall be licensed under
22 the provisions of this section if any owner or operator of the company
23 has been convicted, as indicated by a criminal history record
24 background check performed pursuant to the provisions of this
25 section, of: a crime of the first, second, third or fourth degree; any
26 offense involving the unlawful use, possession or sale of a controlled
27 dangerous substance as defined in N.J.S.2C:35-2; or any offense where
28 the issuance of a license would be contrary to the public interest, as
29 determined by the superintendent. The fingerprints of each owner or
30 operator and the written consent of the owner or operator shall be
31 submitted to the superintendent for a criminal history record
32 background check to be performed. The superintendent shall compare
33 these fingerprints with fingerprints on file with the State Bureau of
34 Identification in the Division of State Police and the Federal Bureau
35 of Investigation consistent with applicable State and federal laws, rules
36 and regulations. The owner or operator shall bear the cost for the
37 criminal history record background check, including all costs of
38 administering and processing the check.

39 d. The superintendent, when satisfied with the examination of any
40 application and such further inquiry and investigations as he shall deem
41 proper as to the good character, competency and integrity of the
42 applicant, shall issue a license to an approved security ¹[guard]
43 officer¹ company upon payment of a fee in an amount established by
44 the superintendent by rule and regulation and execution of a bond in
45 a manner, form and amount satisfactory to the superintendent as
46 established by rule and regulation. The license shall be renewable

1 every two years upon payment of a renewal fee in an amount
2 established by the superintendent by rule and regulation. The license
3 may be revoked or suspended by the superintendent for a violation of
4 any of the provisions of this act or for other good cause.

5 e. The revocation or suspension of any license by the
6 superintendent shall be subject to notice and a hearing.

7 f. A person who, as an owner or operator of a licensed security
8 ¹[guard] officer¹ company employs a security ¹[guard] officer¹ who
9 is not registered with the superintendent as required under section 4
10 of this act shall be guilty of a crime of the fourth degree in addition to
11 any other crime or offense specified by law. Each violation of this
12 section shall constitute a separate offense.

13 Each owner and operator of a licensed security ¹[guard] officer¹
14 company shall be liable, accountable and responsible for the actions
15 and conduct in connection with the employer's business of each
16 security ¹[guard] officer¹ employed by the company.

17 g. ¹A security officer company shall require each person in its
18 employ to execute and furnish a verified statement, to be known as an
19 “employee’s statement,” which shall set forth the employee’s full
20 name, age, residence, place and date of birth and such other
21 information as the superintendent shall require by rule or regulation.
22 The security officer company shall retain in safe keeping each
23 “employee’s statement.” The superintendent shall at all times be given
24 access to and may from time to time examine each “employee’s
25 statement” retained by the security officer company as provided in this
26 subsection.

27 h.¹ A security ¹[guard] officer¹ company shall immediately ¹but
28 in no case after 48 hours,¹ notify the superintendent if a security
29 ¹[guard] officer¹ is terminated for cause at any time.

30
31 4. (New section) a. No person shall be employed as, or perform
32 the functions and activities of, a security ¹[guard] officer¹ unless that
33 person is registered with the superintendent as required in this section.
34 Any person who violates the provisions of this section shall be guilty
35 of a crime of the fourth degree.

36 b. An application for registration as a security ¹[guard] officer¹
37 shall be filed with the superintendent on a form and in a manner
38 prescribed by the superintendent and shall set forth under oath:

39 (1) the applicant's full name, age, which shall be at least 18 years,
40 and residence;

41 (2) ¹[that the applicant is a citizen of the United States

42 (3)]¹ the name and address of all employers or occupations
43 engaged in for the immediately preceding five years;

44 ¹[(4)](3)¹ that the applicant has not been convicted of any
45 disqualifying crime or offense as set forth in subsection c. of this

1 section; and

2 ¹~~[(5)](4)~~¹ such further information as the superintendent may
3 require to show the good character, competency and integrity of the
4 applicant.

5 Any person who shall knowingly make a false statement in, or
6 knowingly omit any material information from, an application as
7 required by this subsection shall be guilty of a crime of the fourth
8 degree in addition to any other crime or offense specified by law.

9 c. No person shall be ¹~~[registered]~~ issued a certificate of
10 registration¹ as a security ¹~~[guard]~~ officer¹ under the provisions of
11 this section if the person has been convicted, as indicated by a criminal
12 history record background check performed pursuant to the provisions
13 of this section, of: a crime of the first, second, third or fourth degree;
14 any offense involving the unlawful use, possession or sale of a
15 controlled dangerous substance as defined in N.J.S.2C:35-2; or any
16 offense where the registration of the individual would be contrary to
17 the public interest, as determined by the superintendent. Each
18 applicant shall submit to the superintendent the applicant's fingerprints
19 and written consent for a criminal history record background check to
20 be performed. The superintendent shall compare these to fingerprints
21 on file with the State Bureau of Identification in the Division of State
22 Police and the Federal Bureau of Investigation, consistent with
23 applicable State and federal laws, rules and regulations. The applicant
24 shall bear the cost for the criminal history record background check,
25 including all costs of administering and processing the check.

26 d. A person whose application has been approved by the
27 superintendent shall complete the required education and training
28 program established in section 5 of this act. Upon satisfactory
29 completion of this program, and upon the payment of a fee in an
30 amount established by the superintendent, the applicant shall be
31 entitled to and the superintendent shall issue and deliver to the
32 applicant a security ¹~~[guard]~~ officer certificate of¹ registration.

33 e. The superintendent may revoke or suspend such ¹certificate of¹
34 registration for a violation of any of the provisions of this act or for
35 other good cause. A ¹certificate of¹ registration shall be surrendered
36 to the superintendent within 72 hours after its term has expired or after
37 notice in writing to the holder that the ¹~~[license]~~ certificate of
38 registration¹ has been revoked.

39 f. The ¹certificate of¹ registration shall be renewed every two
40 years upon forms prescribed by the superintendent and payment of a
41 fee in an amount established by the superintendent by rule and
42 regulation. The ¹certificate of¹ registration may be renewed without
43 further investigation unless it is deemed by the superintendent that the
44 applicant no longer qualifies or verified objections to the renewal are
45 received by the superintendent prior to issuance.

46 g. The revocation or suspension of any ¹certificate of¹ registration

1 by the superintendent shall be subject to notice and a hearing.

2

3 5. (New section) a. An education and training program for
4 security ¹[guards] officers¹ shall be established ¹[and approved]¹ by
5 the superintendent ¹through rule and regulation¹. The program shall
6 consist of such subjects and courses as the superintendent ¹[and
7 commission]¹ may deem appropriate and shall include ¹[40]a
8 minimum number of¹ hours of classroom ¹or other¹ instruction.

9 b. In implementing and administering the education and training
10 program required in subsection a. of this section, the superintendent
11 ¹[and commission]¹ shall have the power:

12 (1) to implement and administer or approve the minimum courses
13 of study and training;

14 (2) to implement and administer or approve physical and
15 psychological testing and screening of applicants;

16 (3) to issue certificates of approval to schools approved by the
17 superintendent ¹[and commission]¹ and to withdraw certificates of
18 approval from those schools disapproved by the superintendent ¹[and
19 commission]¹;

20 (4) to certify instructors pursuant to the minimum qualifications
21 established by the superintendent ¹[and commission]¹;

22 (5) to consult and cooperate with universities, colleges, community
23 colleges and institutes for the development of specialized courses for
24 security ¹[guards] officers¹;

25 (6) to consult and cooperate with departments and agencies of this
26 State, other states and the federal government concerned with training
27 of security ¹[guards] officers¹;

28 (7) to certify those persons who have satisfactorily completed basic
29 educational and training requirements;

30 (8) to annually visit and inspect approved schools;

31 (9) to establish reasonable charges for ¹[such] ¹training and
32 education ¹provided by the superintendent¹; and

33 (10) to make such rules and regulations and to perform such other
34 duties as may be reasonably necessary or appropriate to implement the
35 education and training program.

36

37 6. (New section) a. The superintendent shall ¹[issue] cause to be
38 issued¹ to a registered security ¹[guard] officer¹ an identification card
39 containing such information as the superintendent shall prescribe.
40 ¹The identification card shall incorporate appropriate security
41 features.¹

42 b. A person who is issued an identification card pursuant to
43 subsection a. of this section shall be responsible for its safekeeping and
44 shall not lend, let or allow any other person to use, possess, exhibit or
45 display the card.

1 c. No person shall use, possess, exhibit or display any license, card,
2 shield or badge of any design or material purporting to authorize the
3 holder or wearer to act as a security ¹[guard] officer¹, unless such
4 person ¹[is registered] holds a valid certificate of registration¹ as a
5 security ¹[guard] officer¹ pursuant to section 4 of this act.

6 d. If it is established to the satisfaction of the superintendent that
7 an identification card has been lost or destroyed, the superintendent
8 shall, upon payment of an appropriate fee, ¹[issue] cause to be issued¹
9 a duplicate identification card for the unexpired portion of the term of
10 the registration.

11 e. Any person who violates the provisions of this section shall be
12 guilty of a crime of the fourth degree in addition to any other crime or
13 offense specified by law.

14
15 ¹7. (New section) a. The superintendent shall develop and
16 maintain an electronic database or similar electronic registry, which
17 shall be accessible by licensed security officer companies, and which
18 shall list all persons who are registered as security officers pursuant to
19 the provisions of this act and such other information as the
20 superintendent shall require by rule and regulation.

21 b. Each applicant for a certificate of registration as a security
22 officer shall pay a fee to the superintendent in an amount established
23 by the superintendent by rule and regulation. These fees shall be used
24 exclusively for the development and maintenance of the electronic
25 database or registry established pursuant to subsection a. of this
26 section.¹

27
28 ¹[7.] ¹8. (New section) a. In addition to any other penalties
29 prescribed by this act or any other law, an owner or operator of a
30 licensed security ¹[guard] officer¹ company who employs a security
31 ¹[guard] officer¹ in violation of the provisions of this act shall be
32 liable to a civil penalty not to exceed \$10,000 for the first offense and
33 not more than \$20,000 for a second or subsequent offense. ¹For the
34 purposes of this subsection, each violation shall constitute a separate
35 offense.¹

36 b. In addition to any other penalties prescribed by this act or any
37 other law, a person who permits himself to be employed as or
38 performs the functions and activities of a security ¹[guard] officer¹
39 while in violation of the provisions of this act shall be liable to a civil
40 penalty not to exceed \$1,000 for a first offense and not more than
41 \$2,500 for a second or subsequent offense. ¹For the purposes of this
42 subsection, each violation shall constitute a separate offense.¹

43 c. A penalty imposed under subsections a. or b. of this section shall
44 be recovered in a civil action pursuant to "The Penalty Enforcement
45 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

1 ¹[8.] 9.¹ (New section) For the purpose of investigating whether
2 a person has engaged in, or is engaging in, any act or practice declared
3 unlawful under this act, or for the purpose of investigating the
4 character, competency, integrity or methods of operation of applicants,
5 licensees or registrants hereunder, or of any owner or operator of any
6 licensed security ¹[guard] officer¹ company, the superintendent shall
7 have the power to:

8 a. Require any person to file on such form as may be prescribed by
9 the superintendent, a statement or report in writing under oath, or
10 otherwise, as to the facts and circumstances concerning any matter
11 being investigated;

12 b. Administer oaths or affirmations and examine any person in
13 connection with any investigation;

14 c. Inspect any premises and examine and impound any record,
15 book, computer, electronic database, recording device, document,
16 account, paper or other tangible thing, without prior notification, in
17 connection with any investigation;

18 d. Hold investigative hearings and issue subpoenas to compel the
19 attendance of any person or the production of any record, book,
20 computer, electronic database, recording device, document, account,
21 paper or other tangible thing in connection with any investigation; and

22 e. Apply to the Superior Court for an order compelling compliance
23 with any subpoena or other request for information.
24

25 ¹[9.] 10.¹ (New section) A violation of any of the provisions of
26 this act shall be cause for revocation or suspension of any license or
27 registration issued hereunder, notwithstanding that the same violation
28 may constitute a crime or other offense under the laws of this State or
29 any other state or jurisdiction. An indictment, prosecution and
30 conviction arising out of any of the provisions of this act shall not be
31 construed to preclude, if the evidence so warrants, an indictment,
32 prosecution and conviction for any other crime or offense in this State
33 or any other state or jurisdiction.
34

35 ¹[10.] 11.¹ (New section) Each owner or operator of a security
36 ¹[guard] officer¹ company and each person employed as a security
37 ¹[guard] officer¹ on the effective date of this act shall comply with the
38 requirements of this act by the first day of the seventh month after its
39 effective date.
40

41 ¹[11.] 12.¹ (New section) The superintendent shall promulgate
42 rules and regulations necessary to carry out this the provisions of this
43 act.
44

45 ¹[12.] 13.¹ Section 2 of P.L.1939, c.369 (C.45:19-9) is amended
46 to read as follows:

1 2. Definitions:

2 (a) The term "private detective business" shall mean the business of
3 conducting a private detective agency or for the purpose of making for
4 hire or reward any investigation or investigations for the purpose of
5 obtaining information with reference to any of the following matters,
6 notwithstanding the fact that other functions and services may also be
7 performed by the same person, firm, association or corporation for fee,
8 hire or reward, to wit: (1) crime or wrong done or threatened or
9 assumed to have been done or threatened against the Government of
10 the United States of America, or any State, Territory or Possession
11 of the United States of America; (2) the identity, habits, conduct,
12 movements, whereabouts, affiliations, associations, transactions,
13 reputation or character of any person, association, organization,
14 society or groups of persons, firms or corporations; (3) the credibility
15 of witnesses or other persons; (4) the whereabouts of missing
16 persons; (5) the location or recovery of lost or stolen property; (6) the
17 causes and origin of, or responsibility for, fires, libels, accidents,
18 damage, injuries or losses to persons, firms, associations or
19 corporations, or to real or personal property; (7) the affiliation,
20 connection or relation of any person, firm or corporation with any
21 organization, society, association, or with any official member or
22 representative thereof; (8) with reference to the conduct, honesty,
23 efficiency, loyalty or activities of employees, agents, contractors and
24 subcontractors; (9) the securing of evidence to be used before any
25 investigating committee, board of award, board of arbitration, or in the
26 trial of any civil or criminal cause; provided, however, that the term
27 shall not include a person, firm, association or corporation engaged
28 exclusively in the business of making investigations and reports as to
29 the financial standing, credit and financial responsibility of persons,
30 firms, associations or corporations nor to electrically controlled
31 burglar or fire alarm system with a central unit, nor to any person,
32 firm, association or corporation engaged in the business of making
33 reports for insurance or credit purposes. [Also it shall mean the
34 furnishing for hire or reward of watchmen or guards or private
35 patrolmen or other persons to protect persons or property, either real
36 or personal, or for any other purpose whatsoever.] The term shall not
37 include and nothing in this act shall apply to any lawful activity of any
38 board, body, commission or agency of the United States of America
39 or of any State, Territory or Possession of the United States of
40 America, or any county, municipality, school district, or any officer or
41 employee solely, exclusively and regularly employed by any of the
42 foregoing; nor to any attorney or counselor-at-law in connection with
43 the regular practice of his profession, nor to any person employed by
44 any such attorney or counsellor-at-law when engaged upon his
45 employer's business; nor to any employee, investigator or investigators
46 solely, exclusively and regularly employed by any person, firm,

1 association or corporation which is not engaged in any of the
2 businesses hereinbefore described in items numbered one to nine, both
3 inclusive, of this subsection in so far as their acts may relate solely to
4 the business of the respective employers; nor to any person, firm,
5 association or corporation licensed to do a business of insurance of
6 any nature under the insurance laws of this State, nor to any employee
7 or licensed agent thereof; nor to any person, firm, association or
8 corporation conducting any investigation solely for its own account.

9 (b) The terms "the business of detective agency[.]" and "the
10 business of investigator" [and "the business of watch, guard or patrol
11 agency"] shall mean any person, firm, association or corporation
12 engaged in the private detective business as defined in subsection (a)
13 of this section, who employs one or more persons in conducting such
14 business, but shall not include the business of watch, guard or patrol
15 agency.

16 (c) The terms "private detective" or "investigator" shall mean and
17 include any person who singly and for his own account and profit
18 conducts a private detective business without the aid or assistance of
19 any employees or associates.

20 (d) The masculine shall include the feminine and the neuter genders.

21 (e) The term "superintendent" means the Superintendent of State
22 Police.

23 (f) The terms "firm" and "association" shall include partnerships,
24 but shall not include corporations.

25 (cf: P.L.1971, c.342, s.1)

26

27 ¹[13.] 14.¹ Section 3 of P.L.1971, c.342 (C.45:19-12.1) is
28 amended to read as follows:

29 3. a. Subsequent to the effective date of this act, every licensee
30 shall pay to the superintendent an additional fee of \$15.00 for each
31 person in its employ engaged in said employment in this State as a
32 private detective or investigator [which terms shall include watchmen,
33 guards and private patrolmen]. Any licensee who shall employ any
34 person in the aforementioned categories subsequent to its securing a
35 license or renewal thereof and for whom the fee of \$15.00 has not
36 been paid shall pay the fee of \$15.00 for each of said persons prior to
37 the commencement of said employment with the licensee. Thereafter
38 any licensee at the time of any renewal if its license hereunder shall pay
39 a renewal fee of \$5.00 for each of said employees in the
40 aforementioned categories for whom an initial fee of \$15.00 has been
41 paid by said licensee.

42 b. Any licensee who shall employ any person in the aforementioned
43 categories in subsection a. above without having paid the fees in
44 accordance with said subsection a. shall be a disorderly person.

45 (cf: P.L.1971, c.342, s.3)

1 ¹[14.] 15.¹ Section 12 of P.L.1939, c.369 (C.45:19-19) is
2 amended to read as follows:

3 12. No person licensed under the provisions of this act, or the
4 officers, directors, employees, operators or agents thereof, shall wear,
5 carry or accept any badge or shield purporting to indicate that such
6 person is a private detective or investigator or connected with the
7 private detective business [, but any such person, officer, director,
8 employee, operator or agent, who is acting as a guard or performs any
9 special service, may, while in uniform, and while on the premises of
10 the employer of the licensee where he is so acting, wear a badge or
11 shield inscribed with the name of the license holder, number, and the
12 word "Guard" or "Special Service."]₁. Any person violating the
13 provisions of this section shall be guilty of a misdemeanor.

14 (cf: P.L.1953, c.404, s. 1)

15

16 ¹[15.] 16.¹ This act shall take effect on the ¹[first day of the third
17 month] 365th day¹ after enactment ¹, except that the superintendent
18 may take, prior to the effective date, such anticipatory administrative
19 action as shall be necessary for the implementation of this act¹.

20

21

22

23

24 Revises regulation of security guards.