[First Reprint]

ASSEMBLY, No. 1043

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman DORIA. Assemblywoman WEINBERG, Assemblymen Zisa, Blee and LeFevre

AN ACT providing for the licensing of certain security officers and the registration of their employers and supplementing Title 45 of the Revised Statutes.

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

1. As used in this act:

"Armed security officer" means a person who is required by his employer to carry a handgun while in the performance of his duties and who is licensed as an armed security officer under this act.

"Armored car company" means a company which, for itself or under contract with another, transports currency, valuables, jewelry, food stamps, or any other item which requires secured delivery from one place to another with armored personnel.

"Armored car security officer" means an armed security officer who is employed by an armored car company.

"Board" means the State Advisory Board on Security Officers established pursuant to section 13 of this act.

"Director" means the Director of the Division of State Licensing of Security Officers in the Department of Law and Public Safety established pursuant to section 12 of this act.

"Division" means the Division of State Licensing of Security Officers in the Department of Law and Public Safety established pursuant to section 12 of this act.

"Employer" means a security officer company, an armored car company, or agency that employs security officers or, in the case of security officers employed for in-house service, a person that employs security officers for that purpose , all of which are required to register

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Assembly ACP committee amendments adopted December 16, 1996.

pursuant to this act.

"Security officer" a. means a person who is employed, part or full time, in uniform or plain clothes, primarily to protect persons or property, or both, for any purpose, including, but not limited to:

(1) The prevention of intrusion or entry, larceny, vandalism, abuse, fire, trespass or any unauthorized activity on private property;

(2) The control, regulation or direction of the flow or movements of the public, whether by vehicle, on foot or otherwise on private property;

(3) The maintenance of order and safety at athletic, entertainment or other public activities;

(4) Providing canine services for guarding of premises or for the detection of any unlawful device or substance; and

(5) The protection of individuals from bodily harm.

b. The term shall include:

(1) Security personnel employed for in-house service by any organization;

(2) Except as otherwise provided, persons employed as watchmen, guards and private patrolmen by a private detective business which is licensed in accordance with "The Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.); and

(3) Armed security officers, unarmed security officers, and armored car security officers.

c. The term shall not include:

(1) An employee whose duties are restricted to the central station of a fire or burglar alarm company unless the employee physically reports to the premises where the alarm originated;

(2) An employee whose duties are primarily internal audit and credit functions;

(3) Air carriers regulated by the Federal Aviation Administration pursuant to 14 C.F.R§§121.1 et seq. or 135.1 et seq., their contractors, or air carrier security operations performed in accordance with 14 C.F.R§§107.1 et seq. or 108.1 et seq.

(4) A security officer or security supervisor for a nuclear facility existing under license of the federal Nuclear Regulatory Commission; [1][and][1]

(5) Law enforcement personnel who are active or retired. An employer or potential employer, however, may require training of a law enforcement officer [1]; and

(6) An employee of a business who is unarmed and in plain clothes and whose primary responsibility is loss prevention and the protection of the business's assets[1].

"Unarmed security officer" means a person who is not required by his employer to carry a handgun while in the performance of his duties, and who is licensed as an unarmed security officer.

2. a. The director shall issue any of the following to a person satisfying the requirements set forth in section 3 of this act:

(1) An "A" license for an unarmed security officer;

(2) A "B" license for an armed security officer;

(3) A "C" license for an armored car security officer.

b. The director shall register an employer according to the provisions of subsection a. of section 4 of this act.

c. The board, after a public hearing, shall establish fees to be imposed for the purposes of this act. These fees, dedicated to the administration of this act, shall not be in excess of the prorated direct costs of administration.

3. a. A person shall meet the requirements for licensure under this act prior to becoming or continuing in employment as a watchman or guard under "The Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.) or as a security officer under this act. The director shall issue an appropriate license to a person who:

(1) Pursuant to a criminal history background check, including fingerprint comparison, conducted through the Federal Bureau of Investigation or the State Bureau of Identification in the Division of State Police, has no record of conviction for a crime enumerated in section 5 of this act. The result of the criminal history background check shall be reported to the applicant and the employer or prospective employer within five days after the director receives the information;

(2) Satisfactorily completes at least eight hours of training approved by the board. This training shall include, but not be limited to, report writing, fire detection, reporting, and safety procedures, general crime prevention procedures and legal powers and limitations of a security officer. Training shall be provided by an instructor certified by the director for the training of security officers pursuant to section 10 of this act. The training programs provided by employers with in-house security officers shall meet the standards for training approved by the board. The instructors for the training programs provided by employers with in-house security officers shall be certified by the director according to standards recommended by the board;

(3) Completes eight consecutive hours of on-the-job training conducted by the employer or prospective employer. On-the-job training shall include, but not be limited to, reviewing the layout of the assigned workplace, site-specific emergency procedures and phone numbers, contact persons, and existing security apparatus. An armored car security officer shall complete eight consecutive hours of on-the-job training conducted by the employer;

(4) Satisfactorily completes a physical examination by a physician licensed by the State of New Jersey;

(5) Satisfactorily completes a psychological examination approved by the board;

(6) Has not been disqualified for licensure pursuant to section 5 of this act;

(7) Successfully completes a written competency examination approved by the board; and

(8) Furnishes in a timely manner the employee statement, as required by section 7 of this act.

b. A security officer employed in this State on the effective date of this act shall receive licensure if, within one year of the effective date of this act, he successfully completes the written examination required by this section, or if within 90 days after failing that examination, he successfully completes the course of instruction required pursuant to this section.

c. Any applicant for licensure who fails the written competency examination required pursuant to paragraph (7) of subsection a. of this section three times within one twelve month period shall not receive licensure. Persons disqualified for licensure pursuant to this subsection or section 5 of this act may not reapply for licensure except under extraordinary circumstances, as established by the director.

d. A person holding a valid security officer license from another state, which has licensing requirements which are substantially similar to the licensing requirements of this act, shall receive licensure if, within 90 days of employment as a security officer in this State, he successfully completes the written examination required pursuant to this section, or within 90 days of failing that written examination, he successfully completes the course of instruction required pursuant to this section.

e. A license issued pursuant to subsection a. of this section shall be reissued biennially by the director upon completion by the applicant of four hours of renewal training approved by the board and upon completion of any other requirements recommended by the board. Notwithstanding the provisions of this subsection, an armored car security officer and his employer shall comply with the requirements of federal law pursuant to the "Armored Car Industry Reciprocity Act of 1993," Pub.L.103-55 (15 U.S.C.§5901 et seq.).

f. Notwithstanding the provisions of this section, (1) a person who possesses an unarmed security officer license issued by another state, an armed security officer license issued by another state and a valid permit to carry a handgun pursuant to N.J.S.2C:58-4, or an armored car security officer license issued by another state, may be employed as an unarmed security officer, armed security officer, or armored car security officer in this State for a period not to exceed 90 days in one 12 month period, provided that the license was issued by a state with licensing requirements substantially similar to the requirements of this act; or (2) a person who is employed as a security officer by an

out-of-State employer and who has completed a training program of an employer whose training requirements are substantially similar to the requirements of this act may be employed as an unarmed security officer in this State for a period not to exceed 90 days in one 12 month period, and provided further that the licensee or person described in paragraph (2) of this subsection:

(a) is on temporary assignment;

(b) performs the duties pursuant to the license, if applicable;

(c) continues to be employed by the employer from the state where the license was issued or training given; and provided further that the employer notifies the director of the assignment.

4. a. No employer shall employ a security officer or offer security officer services unless the employer is registered by the director according to the requirements recommended by the board. These requirements shall include, but not be limited to, three letters of reference from other citizens and a statement noting the primary place of business and the locations of all other branches of business. The registration shall be reissued biennially by the director. The registration shall be posted in a place visible to the public in the employer's primary place of business.

b. Employers who employ security officers on the effective date of this act may continue such employment without being registered for no more than 90 days after that date. Any change in the information required by the director for registration shall be reported to the director within five days. The requirements of this subsection shall not apply to any person who contracts with an employer of security officers for the provision of security officers.

c. An employer shall hire and retain in employment only those security officers who are licensed by the director or who are in the process of applying for licensure pursuant to section 3 of this act. An employer may issue a non-renewable, temporary license for no more than 90 days, provided that the applicant has completed the requirements of subsection a. of section 3 of this act and the employer has no knowledge of the applicant's conviction of a crime which would disqualify him pursuant to section 5 of this act. The director may issue a 45-day special renewal license beyond the 90-day period to any individual whose application is otherwise complete and approvable except for the receipt of the criminal background check.

d. An employer may pay all or part of the costs of licensure and the costs of the training required pursuant to this act. An individual seeking security officer licensure may pay the costs of licensure and the costs of the training required pursuant to this act.

e. All employers shall be required to maintain comprehensive general liability insurance for death, personal injury, false arrest, false imprisonment, malicious prosecution, libel, slander and violation of the

right of privacy, in an amount no less than $100,000 per occurrence and $300,000 in the aggregate. An employer's general liability insurance cannot be cancelled unless 30 days' notice is given to the director.

f. An emergency situation shall exist if a temporary, unforseen combination of circumstances requires immediate action to secure or protect personnel, property, or both. In an emergency situation, an employer may employ for no more than 48 hours unarmed security officers that have not yet completed the training required in paragraph (3) of subsection a. of section 3 of this act. Unarmed security officers employed in an emergency situation shall complete the on-the-job training required by this act as soon as is reasonable.

5. a. A person shall not be licensed or, if licensed, shall lose licensure as a security officer if he has been convicted of a crime of the first, second or third degree or has been convicted more than once of a crime of the fourth degree or their equivalents in any jurisdiction, and who has not, subsequent to such conviction, received executive pardon therefor. All licensees shall report any disqualifying conviction to the director within 24 hours of the conviction.

b. Any person whose private detective or investigator's license under "The Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.) was revoked or application for the license was denied by the director or by the authorities of any other state or territory because of conviction for any of the crimes or offenses specified in this section shall not be licensed unless the licensing action has been nullified by a court of competent jurisdiction.

c. The director shall conduct a cross reference criminal history check of each licensed security officer at least annually with the national and State crime registries. The cost of the annual cross-reference criminal history check shall be included in the license and registration fees approved by the board.

6. a. An armed security officer shall complete, in addition to the training required by section 3 of this act, a firearms training program and annual firearms refresher course which shall be approved by the Police Training Commission in the Department of Law and Public Safety established pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and which shall comply with standards substantially based on the firearms training course and range qualification course established at the Monmouth County Police Academy, and which shall be taught by an instructor certified by the director. The firearms training program and annual firearms refresher course shall consist of a written examination on which an applicant must obtain a score of 90% or above and shall consist of actual firing range experience at which an applicant must obtain an average score of 80% or above.

b. All armed security officers and armored car security officers shall be exempt from the requirements of N.J.S.2C:58-4 for a permit to carry a handgun, but shall complete the requirements for an armed security officer under this act.

7. a. Notwithstanding any provisions to the contrary for watchmen, guards or private patrolmen under section 9 of P.L.1939, c.369 (C.45:19-16), the employer or prospective employer of a person who applies to be a licensed security officer shall submit to the director a statement, executed by the employee or prospective employee, to be known as an "employee statement," setting forth the following:

(1) Full name, age, residence address, and place and date of birth;

(2) The country of which he is a citizen;

(3) The businesses or occupations engaged in for the five years immediately preceding the date of the filing of the statement, setting forth the place or places where such businesses or occupations were engaged in, and the name or names of employers, if any;

(4) Convictions of crimes or offenses involving moral turpitude or of any of the crimes or offenses referred to or described in section 5 of this act;

(5) The names and addresses of three personal references; and

(6) Any further information that the director may by rule require to show the good character, competency and integrity of the applicant.

b. An employer or prospective employer shall make every effort to verify an employee statement as required pursuant to subsection a. of this section.

8. For each application for licensure as a security officer, the director shall:

a. Assemble all records and other information concerning the applicant required for licensure pursuant to section 3 of this act.

b. Evaluate the qualifications of an applicant for licensure in accordance with the requirements of this act.

c. Notify by regular mail the applicant, and the employer or the prospective employer, of his determination within five days of the receipt of the State criminal background check. Failure of the director to receive a report of federal fingerprint files shall not alone constitute a ground for denying a license to an applicant.

d. The denial of licensure as a security officer under this section shall be reviewable by an administrative adjudication as set forth in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

9. a. The director shall maintain a computerized registry of all persons who apply for licensure or have been licensed as a security

officer. The employer or potential employer shall obtain only the name, date of birth, registration number, employment history and security officer license status of the employee or potential employee.

b. The director shall maintain all records collected from applicants pursuant to this act for a period of five years after the applicant's termination as a security officer, resignation, retirement, or non-renewal of the applicant's license. An employer shall notify the director whenever a security officer in their employ is terminated, resigns, or retires.

10. a. No instructor shall teach a course of instruction required by this act unless he is certified by the director according to standards recommended by the board.

b. A course of instruction required by this act shall be certified by the board.

c. The director shall monitor the course of instruction offered by any certified instructor at least annually, without notice, to ensure compliance with the standards promulgated pursuant to this act.

11. a. Any security officer who violates a provision of this act shall be guilty of a disorderly persons offense.

b. Any employer who violates a provision of this act is guilty of a disorderly persons offense and subject to a fine not to exceed $1,000 for each offense. The fines collected pursuant to this subsection shall be deposited in the General Fund.

12. a. There is created in the Department of Law and Public Safety a Division of State Licensing of Security Officers to be administered by a director, who shall be appointed by the Attorney General and serve at the Attorney General's pleasure, and which shall include other personnel as determined by the Attorney General. The director and staff shall carry out the duties specified pursuant to this act.

b. The Attorney General shall maintain within any public building, whether owned or leased by the State, suitable quarters for the division's office and meeting place, except that no office or meeting place shall be within premises owned or occupied by an officer or member of the board.

c. The director is authorized and directed to employ field investigators and administrative staff to assist in the enforcement of this act.

d. The director shall report annually to the board concerning the costs of administering this act and make recommendations regarding the adjustment of fees.

e. All information gathered by the division relating to employer personnel matters shall be kept strictly confidential unless otherwise noted in this act.

13. a. There is created in the Department of Law and Public Safety a State Advisory Board on Security Officers consisting of 11 members, 10 of whom shall be appointed by the Governor, with the advice and consent of the Senate. The membership of the board shall be as follows: the Attorney General, or his designee, who shall serve ex officio; and the 10 appointed members, including a representative of the New Jersey State Association of Chiefs of Police; a representative from the National Association of Security Companies; one public member who is not affiliated with the private security industry and one other public member; three representatives of private industry employing proprietary security; a representative of the National Armored Car Association; a representative of the burglar alarm industry; and a representative of private industry who hires contract security officers.

The term of office of each appointed board member shall be four years; except that of the members first appointed, three shall serve for two years, three shall serve for three years, and four shall serve for four years. Vacancies shall be filled for the unexpired terms only. No member may be appointed for more than two consecutive terms.

The organization, meetings and management of the board shall be established in regulations promulgated by the Attorney General.

The officers and members of the board shall not be compensated, but shall be reimbursed for actual expenses reasonably incurred in the performance of their duties.

The Attorney General shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's office and meeting place, except that no office or meeting place shall be within premises owned or occupied by an officer or member of the board.

The executive secretary of the board shall be appointed by the Attorney General and shall serve at his pleasure.

The Attorney General shall provide staffing and any administrative assistance that he may deem necessary in order for the board to carry out its duties pursuant to this act.

b. The duties of the board shall be as follows: to establish standards for the training and examination of security officers; to recommend standards for the certification of instructors; to establish standards for the registration of employers; to recommend to the director and the Attorney General regulations necessary to effectuate the provisions of this act; to participate in the formulation of rules and regulations, the hearing of grievances, the establishment of standards, and the issuance and revocation of licenses registrations and certificates; to monitor and regulate misleading advertising of security officer services by employers; to establish fees pursuant to the provisions of section 2 of this act for the licensing of security officers, the registration of employers and the certification of instructors[1]; to

oversee the implementation of this act by the director and the Attorney General; and to report to the Legislature on the effectiveness of this act and to recommend any changes in the law necessary to provide competent and trustworthy private security officerservices to the general public.

c. All information gathered by the board relating to employer personnel matters shall be kept strictly confidential unless otherwise noted in this act.

14. The Attorney General shall promulgate rules and regulations recommended by the board pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to effectuate the provisions of this act.

15. This act shall take effect one year after enactment, but sections 12, 13 and 14 of this act shall take effect immediately.

Requires the licensing of certain security officers and the registration of their employers.