

SHORT TITLE: Security guards and private investigators; modifying provisions relating to powers of Council on Law Enforcement Education and Training, psychological evaluation, licensure, disciplinary actions, and use of certain equipment; repealer; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 512

By: Henry

AS INTRODUCED

An Act relating to security guards and private investigators; amending 59 O.S. 1991, Sections 1750.3, as amended by Section 2, Chapter 199, O.S.L. 1992, 1750.3A, 1750.5, as last amended by Section 6, Chapter 357, O.S.L. 1995, 1750.6 and 1750.7, as amended by Sections 2 and 3, Chapter 63, O.S.L. 1993, and 1750.10, as amended by Section 5, Chapter 22, O.S.L. 1996 (59 O.S. Supp. 1996, Sections 1750.3, 1750.5, 1750.6, 1750.7 and 1750.10), which relate to powers of Council on Law Enforcement Education and Training, psychological evaluation, licensure, disciplinary actions, and use of certain words and equipment; modifying gender references; authorizing certain reciprocal agreements, suspension of licenses, and certain additional testing under certain circumstances; requiring completion of psychological evaluation prior to licensure; clarifying language; requiring certain statement on application; deleting obsolete language; requiring agencies have distinguishable names; modifying portion of certain fee to be deposited in certain revolving fund; modifying standard of proof required for certain disciplinary actions; modifying restriction on equipping certain vehicles with emergency lights; repealing 59 O.S. 1991, Section 1750.13, which relates to registry of

entities employing security guards; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1750.3, as amended by Section 2, Chapter 199, O.S.L. 1992 (59 O.S. Supp. 1996, Section 1750.3), is amended to read as follows:

Section 1750.3 A. The director of the Council on Law Enforcement Education and Training, and any staff member designated by the director, shall have all the powers and authority of peace officers of this state for the purposes of enforcing the provisions of Section 1750.1 et seq. of this title, and all other duties which are or may be conferred upon the Council by Section 1750.1 et seq. of this title. ~~Provided, the~~ The powers and duties conferred on the director or any staff member ~~he appoints~~ appointed by the director as a peace officer shall not limit the powers and duties of other peace officers of this state or any political subdivision thereof. The director, or any staff member ~~he appoints~~ appointed by the director as a peace officer shall, upon request, assist any federal, state, county, or municipal law enforcement agency.

B. The Council on Law Enforcement Education and Training shall have the following powers and duties:

1. To promulgate rules ~~and regulations~~ to carry out the purposes of ~~this act~~ Section 1750.1 et seq. of this title;

2. To establish and enforce standards governing the training of persons required to be licensed pursuant to ~~this act~~ Section 1750.1 et seq. of this title with respect to:

- a. issuing, denying, or revoking certificates of approval to security training schools, and programs administered by the state, a county, a municipality,

~~or a private corporations corporation, or individuals~~
an individual,

- b. certifying instructors at approved security training schools,
- c. establishing minimum requirements for security training schools and periodically reviewing these standards, and
- d. providing for periodic inspection of all security training schools or programs;

3. To establish minimum curriculum requirements for training as the Council may require for ~~either~~ security guards, armed security guards ~~or,~~ and private investigators. Training requirements for unarmed security guards shall not exceed forty (40) hours of instruction;

4. To establish minimum requirements for a mandatory continuing education program for all licensed private investigators which shall include, but not be limited to:

- a. establishing a designated minimum number of clock hours of required attendance, not to exceed eight (8) clock hours yearly, at accredited educational functions,
- b. establishing the penalties to be imposed upon a licensee for failure to comply with the continuing education requirements,
- c. establishing a nonpaid advisory board of licensed private investigators to assist the Council in establishing the criteria for determining the qualifications of proposed continuing education programs that would be submitted to the Council for accreditation to meet this requirement, and

d. providing that the expense of such continuing education shall be paid by the private investigators participating therein;

5. To grant a waiver of any training requirement, except firearms training which shall be required for an armed security guard license; ~~provided, if~~ if the applicant has completed not less than one (1) year of full-time employment as a security guard, armed security guard, private investigator, or law enforcement officer within a three-year period immediately preceding the date of application and the applicant provides sufficient documentation thereof as may be required by the Council;

6. To grant an applicant credit for fulfilling any prescribed course or courses of training, including firearms training, ~~provided the applicant submits~~ upon submission of acceptable documentation of comparable training. The Council may grant or refuse any such credit at its discretion;

7. To issue the licenses and identification cards provided for in ~~this act~~ Section 1750.1 et seq. of this title;

8. To investigate alleged violations of ~~this act~~ Section 1750.1 et seq. of this title or rules ~~and regulations~~ relating thereto and to deny, suspend, or revoke licenses and identification cards if necessary, or to issue notices of reprimand to licensees with or without probation under rules ~~and regulations~~ to be prescribed by the Council; ~~and~~

9. To provide all forms for applications, identification cards, and licenses required by ~~this act~~ Section 1750.1 et seq. of this title;

10. To enter into reciprocal agreements with officials of other states;

11. To immediately suspend a license if a licensee's actions present a danger to the licensee or to the public; and

12. To require additional testing for continuation or reinstatement of a license if a licensee exhibits an inability to exercise reasonable judgment, skill, or safety.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1750.3A, is amended to read as follows:

Section 1750.3A A. Each applicant for an armed security guard license shall be administered any current standard form of the Minnesota Multiphasic Personality Inventory (MMPI), or other psychological evaluation instrument approved by the Council on Law Enforcement Education and Training, which shall be administered during the firearms training phase required by Section 1750.3 of ~~Title 59 of the Oklahoma Statutes~~ this title. The security training school administering such instrument shall forward the response data to a psychologist licensed by the State Board of Examiners of Psychologists for evaluation. ~~Such~~ The licensed psychologist shall be of the applicant's choice. Applicants with comparable training shall complete the psychological test and evaluation requirements prior to licensing. It shall be the responsibility of the applicant to bear the cost of ~~such~~ the psychological evaluation.

B. If the licensed psychologist is unable to certify the applicant's psychological capability to exercise appropriate judgment, restraint, and self-control, after evaluating the data, the psychologist shall employ whatever other psychological measuring instruments or techniques deemed necessary to form ~~his~~ a professional opinion. The use of any psychological measuring instruments or techniques shall require a full and complete written explanation to the Council on Law Enforcement Education and Training.

C. The psychologist shall forward a written psychological evaluation, on a form prescribed by the Council, to the Council within fifteen (15) days of the evaluation, even if the applicant is found to be psychologically at risk. The Council may utilize the

results of the psychological evaluation for up to six (6) months from the date of the evaluation after which the applicant shall be reexamined. No person who has been found psychologically at risk in the exercise of appropriate judgment, restraint ~~and, or~~ self-control shall reapply for certification until one (1) year from the date of being found psychologically at risk.

D. ~~Peace~~ Active peace officers, ~~active or retired,~~ who have been certified by the Council on Law Enforcement Education and Training shall be exempt from the provisions of this section.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1750.5, as last amended by Section 6, Chapter 357, O.S.L. 1995 (59 O.S. Supp. 1996, Section 1750.5), is amended to read as follows:

Section 1750.5 A. Licenses authorized to be issued by the Council on Law Enforcement Education and Training shall be as follows:

1. Security Agency License;
2. Investigative Agency License;
3. Private Investigator License (unarmed);
4. Security Guard License (unarmed);
5. Armed Security Guard License; and
6. Special Event License (unarmed).

B. Any qualified applicant meeting the requirements for more than one of the positions of private investigator, security guard, or armed security guard may be issued a separate license for each position for which ~~he qualifies~~ qualified, or in the discretion of the Council, a combination license provided the required license fees are paid.

C. A private investigator may carry a firearm, if ~~said the~~ the private investigator also performs the functions of an armed security guard, under the authority of the armed security guard license; ~~or if said.~~ the private investigator performs no functions of an armed security guard, the Council may add an

endorsement to the license of the private investigator that states "Firearms Authorized", in lieu of the armed security guard license, ~~provided if~~ if the private investigator completes the same training and testing requirements of the armed security guard. The Council will charge the same fee for the "Firearms Authorized" endorsement on the private investigators license as the cost of the armed security guard license.

D. Any identification card issued to a person meeting the license requirements for an armed security guard shall be distinct and shall explicitly state that the person is authorized to carry a firearm pursuant to the provisions of ~~this act~~, Section 1750.1 et seq. of this title. Upon receipt of the license and identification card, ~~such the~~ the armed security guard is authorized to carry a firearm in the performance of his or her duties subject to the provisions of ~~this act~~ Section 1750.1 et seq. of this title and the rules ~~and regulations prescribed~~ promulgated by the Council.

E. The Council may issue a conditional license to a person employed by a security or investigative agency as a trainee for a security guard, armed security guard, or private investigator position, when ~~such the~~ the person has submitted a properly completed application, made under oath, subject to the following conditions:

1. A conditional license shall authorize ~~such~~ employees to perform the same functions that regular licensees perform, but subject to supervision by the employing agency as the Council may prescribe;

2. The holder of ~~such a~~ a conditional license shall complete the necessary training requirements within one hundred eighty (180) days from the effective date of the conditional license, after which the conditional license shall expire;

3. The holder of a conditional license as an armed security guard shall not carry a firearm in the performance of ~~his~~ duties until ~~he has completed~~ after completing a course of firearms

training as prescribed by the Council, and ~~has~~ having been issued a regular license by the Council;

4. A conditional license may be renewed at the discretion of the Council, if necessary to allow an applicant to complete any training required for a regular license; and

5. When the Council finds that a conditional license holder has completed the required training and is otherwise qualified for a license pursuant to the provisions of Section 1750.1 et seq. of this title, the Council shall issue ~~such person~~ a regular license.

F. A Security Agency License may be issued to an individual, corporation, or other legal entity meeting the following qualifications:

1. If the license is to be issued in the name of a legal entity other than a natural person, the applicant must furnish proof that the entity is legally recognized, such as the issuance of a corporate charter; and

2. The executive officer, manager, or other person in charge of supervising security guards in the performance of their duties shall be a licensed security guard.

G. An Investigative Agency License may be issued to an individual, corporation, or other legal entity meeting the following qualifications:

1. If the license is to be issued in the name of a legal entity other than a natural person, the applicant must furnish proof that the entity is legally recognized, such as the issuance of a corporate charter;

2. Any person, otherwise qualified, may own a private investigation agency; and

3. A self-employed private investigator who employs no other investigators shall also be licensed as an investigative agency, but shall only be required to be insured or bonded as a self-employed private investigator.

H. A Security Guard License, Armed Security Guard License, Private Investigator License, or combination thereof may be issued to an applicant meeting the following qualifications. The applicant shall:

1. Be a citizen of the United States or an alien legally residing in the United States;

2. Be at least eighteen (18) years of age, except that an applicant for an Armed Security Guard License shall be at least twenty-one (21) years of age;

3. Have successfully completed training requirements for the license applied for, as prescribed by the Council;

4. Be of good moral character;

5. Not have a record of a felony conviction;

6. Not have a record of conviction for larceny, theft, false pretense, fraud, embezzlement, false personation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or sale of a controlled dangerous substance, any offense involving a firearm, or any other offense as prescribed by the Council, as provided herein.

~~Provided however, if~~

a. If any conviction which disqualifies an applicant occurred more than five (5) years prior to the application date and the Council is convinced the offense constituted an isolated incident and the applicant has been rehabilitated, the Council may, in its discretion, waive the conviction disqualification as provided for in this ~~section~~ paragraph and issue an unarmed security guard license or a private investigator's license, but shall not issue an armed guard license, to the applicant if the applicant is

otherwise qualified, unless ~~said~~ the felony involved the use of a firearm or was violent in nature.

b. If an Oklahoma State Bureau of Investigation records check and a local records check reveal that there are no felony convictions, criminal convictions involving moral turpitude, or any other disqualifying convictions as specified in the Oklahoma Security Guard and Private Investigator Act, Section 1750.1 et seq. of this title, or prescribed by the Council, then the Council may conditionally issue an armed security guard license pending completion of the criminal history and background check. ~~Further, under~~

c. Under oath, the applicant shall certify that he or she has no disqualifying convictions as specified in the Oklahoma Security Guard and Private Investigator Act or by the Council.

d. The applicant shall further meet all other qualifications.

e. If upon completion of the required background investigation it is discovered that a disqualifying conviction exists, the Council shall immediately revoke the armed guard license of the applicant;

7. Make a statement whether the applicant has been adjudicated incompetent or committed to a mental institution, and a statement regarding any history of illegal drug use or alcohol abuse; and

8. Make a statement regarding misdemeanor domestic violence charges.

I. A special event license may be issued to an employee of a security agency who is hired on a temporary basis as an unarmed security guard for a particular event. An application for a special event license shall be made by the agency ~~so~~ employing the applicant. ~~Said~~ The agency shall certify to the Council that the

applicant meets the qualifications for security guards, pursuant to subsection H of this section.

J. 1. ~~Effective on and after July 1, 1988, all~~ All persons and agencies ~~newly licensed pursuant to Section 1750.1 et seq. of this title, or who renew an existing license,~~ shall obtain and maintain liability coverage in accordance with the following minimum standards:

- a. general liability insurance coverage for bodily injury, personal injury, and property damage, with endorsements for personal injury including false arrest, libel, slander, and invasion of privacy, or
- b. a surety bond that allows persons to recover for actionable injuries, loss, or damage as a result of the willful, or wrongful acts or omissions of the principal and protects this state, its agents, officers and employees from judgments against the principal or insured licensee, and is further conditioned upon the faithful and honest conduct of the principal's business.

2. Liability coverages and bonds outlined in this section shall be in the minimum amounts of One Hundred Thousand Dollars (\$100,000.00) for agencies, Ten Thousand Dollars (\$10,000.00) for armed security guards and Five Thousand Dollars (\$5,000.00) for security guards and self-employed private investigators who employ no other investigators.

3. Security agencies and investigative agencies shall ensure that all employees of ~~said~~ these agencies have met the minimum liability coverages as prescribed in this section.

4. Insurance policies and bonds issued pursuant to this section shall not be modified or canceled unless ten (10) days' prior written notice is given to the Council. All persons and agencies insured or bonded pursuant to this section shall be insured or

bonded by an insurance carrier or a surety company licensed in the state in which the insurance or bond was purchased, or in this state.

5. In lieu of the requirements of this subsection, the Council may accept a written statement from a corporation which is registered with the Oklahoma Secretary of State attesting that the corporation self-insures the general operation of business for the types of liability set out in paragraphs 1 and 2 of this subsection.

K. Upon written notice, any license may be placed on inactive status.

L. Similar or duplicate agency names will not be issued. Each agency name must be distinguishably different.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1750.6, as amended by Section 2, Chapter 63, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1750.6), is amended to read as follows:

Section 1750.6 A. 1. Application for a license shall be made on forms provided by the Council on Law Enforcement Education and Training and shall be submitted in writing by the applicant under oath. The application shall require the ~~furnishing of~~ applicant to furnish information reasonably required by the Council to implement the provisions of the Oklahoma Security Guard and Private Investigator Act, Section 1750.1 et seq. of this title, including classifiable fingerprints to enable the search of criminal indices for evidence of a prior criminal record.

2. Upon request of the Council, the Oklahoma State Bureau of Investigation and other state and local law enforcement agencies shall furnish a copy of any existent criminal history data relating to an applicant, including investigation reports which are otherwise required by law to be deemed confidential, to enable the Council to determine the qualifications and fitness of such applicant for a license.

B. 1. The original application and any license renewal shall be accompanied by a nonrefundable fee of Sixty Dollars (\$60.00) for the original application and Twenty-five Dollars (\$25.00) for ~~the~~ each renewal of a private investigator or an unarmed security guard, Eighty-five Dollars (\$85.00) for the original application and Fifty Dollars (\$50.00) for ~~the~~ each renewal of an armed security guard, Seven Dollars (\$7.00) for a special event, and Two Hundred Dollars (\$200.00) for either the original application or ~~the~~ each renewal for a security agency or investigative agency.

2. A licensee whose license has been suspended may apply for reinstatement of license after the term of the suspension has passed. Any application for reinstatement following a suspension of licensure shall be accompanied by a nonrefundable fee of Twenty-five Dollars (\$25.00) for the reinstatement of a private investigator or unarmed security guard, Fifty Dollars (\$50.00) for the reinstatement of an armed security guard, and Two Hundred Dollars (\$200.00) for reinstatement of a security or investigative agency.

3. A licensee who fails to file a renewal application on or before the expiration of a license shall pay a late fee of Twenty-five Dollars (\$25.00) for an individual license and a late fee of One Hundred Dollars (\$100.00) for an agency license.

4. Except as otherwise provided ~~for~~ in this subsection, ~~said~~ the fees, penalties, and fines shall be deposited in the General Revenue Fund. ~~Thirty-five Dollars (\$35.00) of the~~ The prevailing fingerprint processing fee for the original application for a private investigator, an unarmed security guard, or an armed security guard shall be deposited in the OSBI Revolving Fund.

C. A Security Guard License, Armed Security Guard License, or Private Investigator License shall be valid for a period of two (2) years and may be renewed for additional two-year terms. A Security Agency License or Investigative Agency License shall be valid for a period of five (5) years and may be renewed for additional five-year

terms. A special event license shall be valid only for the duration of the event for which it is expressly issued. Any individual may be issued up to two special event licenses during any calendar year.

D. The Council shall devise a system for issuance of licenses, ~~such system to be operational through July 1989,~~ for the purpose of evenly distributing the expiration dates of ~~such~~ the licenses. ~~Licenses issued during this period shall be for a period of one (1) year or for a period of two (2) years, at the discretion of the Council.~~

E. Pursuant to its rules ~~and regulations,~~ the Council may issue a duplicate license to a person licensed pursuant to the provisions of the Oklahoma Security Guard and Private Investigator Act. The Council may assess a fee of Four Dollars (\$4.00) for the issuance of a duplicate license. ~~Said~~ The fee must accompany the request for a duplicate license.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1750.7, as amended by Section 3, Chapter 63, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1750.7), is amended to read as follows:

Section 1750.7 A. A Security Guard License, Armed Security Guard License, Private Investigator License, and any conditional license shall be subject to denial, suspension, or revocation and/or disciplinary penalty or fine by the Council on Law Enforcement Education and Training subject to the Administrative Procedures Act for, but not limited to, the following reasons by ~~a preponderance of~~ the clear and convincing evidence:

1. Any erroneous or false statement in an application for a license submitted pursuant to ~~this act~~ Section 1750.1 et seq. of this title;

2. Failure to successfully complete any prescribed course of training as required by the Council;

3. Violation of a provision of the Oklahoma Security Guard and Private Investigator Act or a ~~regulation~~ rule promulgated pursuant to ~~this~~ the act;

4. A conviction for larceny, theft, embezzlement, false pretense, fraud, an offense involving moral turpitude, any nonconsensual sex offense, any offense involving a minor as a victim, any offense involving the possession, use, distribution or sale of a controlled dangerous substance, any offense involving a firearm, or a any felony;

5. Use of beverages containing alcohol while armed with a firearm;

6. Knowingly impersonating a law enforcement officer; or

7. Failure to obtain or maintain liability insurance coverage or a surety bond pursuant to subsection J of Section 1750.5 of this title.

B. A Security Agency License or Investigative Agency License shall be subject to denial, suspension, or revocation and/or disciplinary penalty or fine by the Council subject to the Administrative Procedures Act for, but not limited to, the following reasons by a ~~preponderance of the~~ clear and convincing evidence:

1. A false statement in a license application;

2. Violation of any provision of ~~this act~~ the Oklahoma Security Guard and Private Investigator Act or a ~~regulation~~ rule adopted pursuant thereto;

3. Employing, authorizing, or permitting an unlicensed, uninsured or unbonded person to perform a security guard, armed security guard or private investigator function; or

4. Permitting a person to perform a security guard, armed security guard or private investigator function, knowing ~~such~~ the person has committed any offense enumerated in subsection A of this section.

C. Upon the effective date of suspension or revocation of any license, the licensee shall have the duty to surrender the license and any identification card issued pursuant thereto to the Council.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1750.10, as amended by Section 5, Chapter 22, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1750.10), is amended to read as follows:

Section 1750.10 A. The words "police", "deputy", or "patrolman" shall not be displayed upon any security guard badge, or uniform, or security vehicle. The words "Security", "Security Officer", or "Security Guard" in conjunction with the agencies' name shall be displayed on any badge or uniform in bold letters.

B. Vehicles used by security guards, armed security guards, or security agencies shall display the words "Security", or "Guard", if marked, or both, and the agencies' name in conspicuous letters. No such vehicle shall be equipped with a siren, a lamp with a red or blue lens ~~facing the front of the vehicle~~, nor an overhead light or lights with red or blue lens.

SECTION 7. REPEALER 59 O.S. 1991, Section 1750.13, is hereby repealed.

SECTION 8. This act shall become effective November 1, 1997.

46-1-0941 JY