

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2754

AN ACT

AMENDING SECTIONS 32-2402, 32-2404, 32-2602, 32-2606 AND 32-2636, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 24, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2413; AMENDING TITLE 32, CHAPTER 26, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2610; RELATING TO PRIVATE INVESTIGATORS AND SECURITY GUARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-2402, Arizona Revised Statutes, is amended to
3 read:
4 32-2402. Administration by director; duty to keep records;
5 rules; criminal history records checks
6 A. The director of the department of public safety shall administer
7 this chapter.
8 B. The department shall keep a record of:
9 1. All applications for licenses or registrations under this chapter.
10 2. All bonds and proof of workers' compensation required to be filed.
11 3. ~~A statement as to~~ Whether a license, registration certificate,
12 renewal license or renewal registration certificate has been issued under
13 each application and bond.
14 4. If a license or registration certificate is revoked, suspended,
15 cancelled or denied or if a licensee or registrant is placed on probation,
16 the date of filing the order for revocation, suspension, cancellation, denial
17 or probation.
18 5. All individuals, firms, partnerships, associations or corporations
19 that have had a license or registration revoked, suspended or cancelled or
20 that have been placed on probation and a written record of complaints filed
21 against licensees and registrants.
22 C. The department shall maintain all records kept pursuant to
23 subsection B **OF THIS SECTION** for at least five years. The records, except
24 the financial statement of licensees, are open to inspection as public
25 records.
26 D. The director shall adopt and enforce rules that are not in conflict
27 with the laws of this state and that are necessary to enforce this chapter.
28 **E. THE DIRECTOR MAY CONDUCT PERIODIC CRIMINAL HISTORY RECORDS CHECKS**
29 **PURSUANT TO SECTION 41-1750 FOR THE PURPOSE OF UPDATING THE LICENSING AND**
30 **REGISTRATION STATUS OF CURRENT LICENSE AND REGISTRATION HOLDERS.**
31 Sec. 2. Section 32-2404, Arizona Revised Statutes, is amended to read:
32 32-2404. Private investigator and security guard hearing board;
33 qualifications; appointments; terms; compensation;
34 immunity
35 A. The private investigator and security guard hearing board is
36 established consisting of ~~five~~ **SEVEN** members and an alternate member who are
37 appointed by the director.
38 B. Each member of the board shall be a citizen of the United States
39 and a resident of this state at the time of appointment. ~~One member~~ **TWO**
40 **MEMBERS** shall be ~~a~~ qualifying ~~party~~ **PARTIES** who ~~is~~ **ARE** licensed as provided
41 in this chapter. ~~One member~~ **TWO MEMBERS** shall be ~~a~~ qualifying ~~party~~ **PARTIES**
42 who ~~is~~ **ARE** licensed as provided in chapter 26 of this title. Two members
43 shall be certified peace officers with a rank of at least lieutenant who are
44 not employees of the department. One member shall be a public member who
45 shall not have a financial interest in a private investigation or security

1 guard agency and shall not have an immediate family member or a household
2 member who is licensed or registered under this chapter or chapter 26 of this
3 title or who is a certified peace officer. The alternate member shall be a
4 public member who does not have a financial interest in a private
5 investigation or security guard agency and does not have an immediate family
6 member or a household member who is licensed or registered under this chapter
7 or chapter 26 of this title or who is a certified peace officer.

8 C. Each member of the board shall serve for a staggered term of five
9 years beginning and ending on the third Monday in January. The alternate
10 member shall serve a five year term beginning and ending on the third Monday
11 in January. A member, including the alternate member, shall not serve more
12 than one term, except that a member appointed to fill a vacancy may be
13 reappointed for one full term. **IF A QUALIFIED REPLACEMENT HAS NOT BEEN FOUND
14 BY THE END OF THE MEMBER'S TERM, THE DIRECTOR MAY EXTEND THE MEMBER'S TERM
15 FOR NO MORE THAN SIX MONTHS OR UNTIL A REPLACEMENT IS FOUND, WHICHEVER OCCURS
16 FIRST.**

17 D. The director shall fill a vacancy on the board occurring other than
18 by the expiration of term by appointment of a member for the unexpired term
19 as provided in subsection C of this section. The director, after a hearing,
20 may remove any member of the board for misconduct, incompetency or neglect of
21 duty.

22 E. Members of the board, including the alternate member, are eligible
23 to receive compensation pursuant to section 38-611 for each day actually and
24 necessarily spent in the performance of their duties.

25 F. Members of the board, including the alternate member, are
26 personally immune from suit with respect to all acts done and actions taken
27 in good faith and in furtherance of the purposes of this chapter.

28 Sec. 3. Title 32, chapter 24, article 1, Arizona Revised Statutes, is
29 amended by adding section 32-2413, to read:

30 **32-2413. Reciprocal agreements**

31 **A. THE DEPARTMENT MAY ENTER INTO A RECIPROCAL AGREEMENT WITH A STATE
32 THAT HAS PRIVATE INVESTIGATOR QUALIFICATION LAWS SUBSTANTIALLY SIMILAR TO
33 THIS CHAPTER TO ALLOW A PRIVATE INVESTIGATOR LICENSE OR REGISTRATION TO BE
34 USED BY THE LICENSEE OR REGISTRANT WITHIN THE JURISDICTION OF EITHER THIS
35 STATE OR THE OTHER STATE. THE DEPARTMENT MAY ENTER INTO THE AGREEMENT IF THE
36 ISSUING AUTHORITY FOR THE OTHER STATE MEETS ALL OF THE FOLLOWING CONDITIONS:**

37 **1. ISSUES A PRIVATE INVESTIGATOR IDENTIFICATION CARD WITH AN
38 EXPIRATION DATE PRINTED ON THE CARD.**

39 **2. IS AVAILABLE TO VERIFY THE LICENSE OR REGISTRATION STATUS FOR LAW
40 ENFORCEMENT PURPOSES WITHIN THREE BUSINESS DAYS AFTER A REQUEST FOR
41 VERIFICATION.**

42 **3. HAS DISQUALIFICATION, SUSPENSION AND REVOCATION REQUIREMENTS FOR
43 LICENSES AND REGISTRATIONS.**

1 1. An officer or employee of the federal government, this state or a
2 political subdivision of this state while the officer or employee is
3 performing official duties.

4 2. An individual who performs security related work at:

5 (a) A commercial nuclear generating station that is subject to federal
6 regulatory requirements.

7 (b) A company that is subject to department of defense regulatory
8 requirements.

9 3. A company that employs security guards solely for use of and
10 service to itself and not for others and that complies with the following
11 requirements:

12 (a) If the company's security guards are armed, each guard must
13 complete sixteen hours of firearms training initially and complete an
14 additional eight hours of refresher training each year thereafter.

15 (b) If the security guard wears a uniform or badge, the uniform or
16 badge must strictly conform to the standards established by the department
17 pursuant to this chapter.

18 (c) The company must annually submit an affidavit to the department
19 that attests to the company's compliance with its internal procedures that
20 require a background investigation for each of its security guards.

21 4. THE ARIZONA RANGERS ORGANIZATION AS IDENTIFIED IN SECTION 41-4201,
22 OR AUTHORIZED PERSONS PERFORMING OFFICIAL ARIZONA RANGER DUTIES WHEN IN THE
23 SERVICE OF A NONPROFIT ORGANIZATION RECOGNIZED UNDER SECTION 501(c)(3) OF THE
24 INTERNAL REVENUE CODE.

25 Sec. 6. Title 32, chapter 26, article 1, Arizona Revised Statutes, is
26 amended by adding section 32-2610, to read:

27 32-2610. Reciprocal agreements; recognition

28 A. THE DEPARTMENT MAY ENTER INTO A RECIPROCAL AGREEMENT WITH A STATE
29 THAT HAS SECURITY GUARD QUALIFICATION LAWS SUBSTANTIALLY SIMILAR TO THIS
30 CHAPTER TO ALLOW A SECURITY GUARD REGISTRATION TO BE USED BY THE REGISTRANT
31 WITHIN THE JURISDICTION OF EITHER THIS STATE OR THE OTHER STATE. THE
32 DEPARTMENT MAY ENTER INTO THE AGREEMENT IF THE ISSUING AUTHORITY FOR THE
33 OTHER STATE MEETS ALL OF THE FOLLOWING CONDITIONS:

34 1. ISSUES A SECURITY GUARD IDENTIFICATION CARD WITH AN EXPIRATION DATE
35 PRINTED ON THE CARD.

36 2. IS AVAILABLE TO VERIFY THE REGISTRATION STATUS FOR LAW ENFORCEMENT
37 PURPOSES WITHIN THREE BUSINESS DAYS AFTER A REQUEST FOR VERIFICATION.

38 3. HAS DISQUALIFICATION, SUSPENSION AND REVOCATION REQUIREMENTS FOR
39 REGISTRATIONS.

40 4. REQUIRES THAT THE APPLICANT FOR A REGISTRATION SUBMIT TO A CRIMINAL
41 HISTORY RECORDS CHECK PURSUANT TO SECTION 41-1750 AND APPLICABLE FEDERAL LAW.

42 B. THE DEPARTMENT MAY RECOGNIZE SECURITY GUARD REGISTRATIONS FROM
43 STATES THAT HAVE SECURITY GUARD QUALIFICATION LAWS SUBSTANTIALLY SIMILAR TO
44 THIS CHAPTER IF THE ISSUING AUTHORITY FOR THE OTHER STATE MEETS ALL OF THE

1 CONDITIONS PRESCRIBED IN SUBSECTION A, PARAGRAPHS 1 THROUGH 4 OF THIS
2 SECTION.

3 C. THE RECIPROCAL AGREEMENT OR RECOGNITION SHALL BE LIMITED AND IS
4 INTENDED ONLY TO ALLOW SECURITY GUARD AGENCIES THAT MAINTAIN BUSINESS
5 OPERATIONS IN MULTIPLE STATES TO USE THEIR SECURITY GUARDS TO MEET TEMPORARY
6 DEMANDS. FOR A SECURITY GUARD FROM ANOTHER STATE TO WORK IN THIS STATE, THE
7 DEPARTMENT SHALL SET APPROPRIATE RESTRICTIONS THAT SHALL INCLUDE THE
8 FOLLOWING PROVISIONS:

9 1. THE SECURITY GUARD SHALL POSSESS A SECURITY GUARD REGISTRATION IN
10 GOOD STANDING FROM ANOTHER STATE.

11 2. THE SECURITY GUARD SHALL BE EMPLOYED BY A SECURITY GUARD AGENCY
12 LICENSED IN THIS STATE THAT POSSESSES A SECURITY GUARD AGENCY LICENSE IN BOTH
13 STATES IN GOOD STANDING.

14 3. THE SECURITY GUARD SHALL WORK NO MORE THAN THIRTY DAYS IN A
15 CALENDAR YEAR IN THIS STATE.

16 4. THE SECURITY GUARD AGENCY SHALL PROVIDE WRITTEN NOTIFICATION TO THE
17 DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT.

18 5. SECURITY GUARDS WHO POSSESS ONLY A TEMPORARY OR PROVISIONAL
19 REGISTRATION SHALL NOT BE PERMITTED TO WORK IN THIS STATE.

20 Sec. 7. Section 32-2636, Arizona Revised Statutes, is amended to read:

21 32-2636. Grounds for disciplinary action; emergency summary
22 suspension; judicial review

23 A. The following constitute grounds for disciplinary action against a
24 licensee or registrant, or if the licensee is other than an individual,
25 against its qualifying party or any of its associates, directors or managers:

26 1. Using any letterhead, advertisement or other printed matter to
27 represent, or in any other manner representing, that the licensee,
28 registrant, qualifying party or associate, director or manager is an
29 instrumentality of the federal government or any state or political
30 subdivision of a state.

31 2. Using a name that is different from that under which the licensee,
32 registrant, qualifying party or associate, director or manager is currently
33 licensed or registered for any advertisement, solicitation or contract to
34 secure business under this chapter unless the name is an authorized
35 fictitious name.

36 3. Falsifying fingerprints, photographs or other documents while
37 operating pursuant to this chapter.

38 4. Impersonating, or permitting or aiding and abetting an employee to
39 impersonate, a law enforcement officer or employee of the United States or
40 any state or political subdivision of a state.

41 5. Knowingly violating, or advising, encouraging or assisting in the
42 violation of, any statute, court order, warrant or injunction in the course
43 of business as a licensee or registrant under this chapter.

44 6. Committing or knowingly permitting any employee to commit any
45 violation of this chapter or rules adopted pursuant to this chapter.

- 1 7. Committing an act of misconduct involving a weapon pursuant to
2 section 13-3102.
- 3 8. Conviction of a felony.
- 4 9. Conviction of any act of personal violence or force against any
5 person or conviction of threatening to commit any act of personal violence or
6 force against any person.
- 7 10. Fraud or wilful misrepresentation in applying for an original
8 license or registration or the renewal of an existing license or
9 registration.
- 10 11. Soliciting business for an attorney in return for compensation.
- 11 12. Conviction of any act constituting fraud.
- 12 13. Being on parole, on community supervision, on work furlough, on
13 home arrest, on release on any other basis or named in an outstanding arrest
14 warrant.
- 15 14. Serving a term of probation pursuant to a conviction for any act of
16 personal violence or domestic violence as defined in section 13-3601 or an
17 offense that has the same elements as a domestic violence offense listed in
18 section 13-3601, subsection A.
- 19 15. Wilfully failing or refusing to render client services or a report
20 as agreed between the parties and for which compensation has been paid or
21 tendered pursuant to the agreement of the parties.
- 22 16. The unauthorized release of information acquired on behalf of a
23 client by a licensee, associate or registrant as a result of activities
24 regulated under this chapter.
- 25 17. Failing or refusing to cooperate with or refusing access to an
26 authorized representative of the department engaged in an official
27 investigation pursuant to this chapter.
- 28 18. Employing or contracting with any unregistered or improperly
29 registered person or unlicensed or improperly licensed person or agency to
30 conduct activities regulated under this chapter if the licensure or
31 registration status was known or could have been ascertained by reasonable
32 inquiry.
- 33 19. Permitting, authorizing, aiding or in any way assisting a
34 registered employee to conduct services as described in this chapter on an
35 independent contractor basis and not under the authority of the licensed
36 agency.
- 37 20. Failing to maintain in full force and effect workers' compensation
38 insurance, if applicable.
- 39 21. Conducting security guard services regulated by this chapter on an
40 expired, revoked or suspended license or registration.
- 41 22. Accepting employment, contracting or in any way engaging in
42 employment that has an adverse impact on security guard services being
43 conducted on behalf of clients.
- 44 23. Advertising in a false, deceptive or misleading manner.

1 24. Failing to display on request the identification card issued by the
2 department pursuant to section 32-2624.

3 25. Committing any act of unprofessional conduct.

4 26. BEING ARRESTED FOR ANY OFFENSE LISTED IN THIS CHAPTER THAT WOULD
5 DISQUALIFY THE LICENSEE, REGISTRANT, QUALIFYING PARTY OR ANY OF ITS
6 ASSOCIATES, DIRECTORS OR MANAGERS FROM OBTAINING A LICENSE OR REGISTRATION.

7 B. An officer, director, associate, partner, qualifying party,
8 employee or manager of the holder of an agency license issued pursuant to
9 this chapter who is found in violation of this chapter shall be denied the
10 privilege of operating under such a license. The remaining officers,
11 directors, associates, partners, employees or managers of such licensee who
12 are innocent of such violations may carry on the business.

13 C. Any person aggrieved by a decision of the director may request a
14 hearing pursuant to title 41, chapter 6, article 10. Except as provided in
15 section 41-1092.08, subsection H, final decisions of the director are subject
16 to judicial review pursuant to title 12, chapter 7, article 6.

17 D. On completion of an investigation, the director:

18 1. May dismiss the case.

19 2. May take emergency action.

20 3. May issue a letter of concern, if applicable.

21 4. May forward the findings to the board for review and possible
22 disciplinary action.

23 5. Shall place all records, evidence, findings and conclusions and any
24 other information pertinent to the investigation in the public records
25 section of the file maintained at the department.

26 6. SHALL SUSPEND THE LICENSE OR REGISTRATION OF A PERSON WHO IS
27 ARRESTED FOR AN OFFENSE LISTED IN THIS CHAPTER THAT WOULD DISQUALIFY THE
28 PERSON FROM OBTAINING A LICENSE OR REGISTRATION.

29 E. A letter of concern is a public document and may be used in future
30 disciplinary actions against a licensee or registrant.

31 F. If the department finds, based on its investigation, that the
32 public health, safety or welfare requires emergency action, the director may
33 order a summary suspension of a license or registration pending proceedings
34 for revocation or other action. If the director issues this order, the
35 department shall serve the licensee or registrant with a written notice of
36 complaint and formal hearing, setting forth the charges made against the
37 licensee or registrant and the licensee's or registrant's right to a formal
38 hearing before the board pursuant to title 41, chapter 6, article 10.

39 G. If the department finds, based on its investigation, that a
40 violation of subsection A of this section occurred, a hearing by the board
41 may be scheduled pursuant to title 41, chapter 6, article 10. Notice of the
42 hearing shall be sent by certified mail, return receipt requested, to the
43 licensee's or registrant's last known address in the department's files.

1 H. Based on information the board receives during a hearing pursuant
2 to title 41, chapter 6, article 10, it may recommend to the director that the
3 director:

4 1. Dismiss the complaint if the board believes it is without merit.

5 2. Fix a period and terms of probation best adapted to protect the
6 public health and safety and to rehabilitate or educate the licensee or
7 registrant.

8 3. Place the license or registration on suspension for a period of not
9 more than twelve months.

10 4. Revoke the license or registration.

11 I. The director shall review the records of a finding by the board
12 involving a disciplinary action and may affirm, reverse, adopt, modify,
13 supplement, amend or reject the recommendation of the board. On a finding by
14 the board and review and concurrence by the director that a licensee or
15 registrant committed a violation of subsection A of this section, the
16 probation, suspension or revocation applies to all licenses or registrations
17 held by a licensee or registrant under this chapter.