

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 93
HOUSE BILL 2085

AN ACT

AMENDING SECTIONS 32-2406, 32-2409 AND 32-2457, ARIZONA REVISED STATUTES;
AMENDING TITLE 32, CHAPTER 24, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING
SECTION 32-2462; AMENDING SECTIONS 32-2616 AND 32-2636, ARIZONA REVISED
STATUTES; 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 32-2406, Arizona Revised Statutes, is amended to
3 read:

4 32-2406. Hearings and special meetings

5 A. The board shall hold hearings at a time and place determined by the
6 director. The board may hold special meetings the chairman determines
7 necessary to carry out the functions of the board.

8 ~~B. A quorum consists of three members.~~

9 B. A MAJORITY OF BOARD MEMBERS, REGARDLESS OF BOARD VACANCIES,
10 CONSTITUTES A QUORUM AND A MAJORITY VOTE OF A QUORUM PRESENT IS NECESSARY FOR
11 THE BOARD TO TAKE ANY ACTION.

12 Sec. 2. Section 32-2409, Arizona Revised Statutes, is amended to read:

13 32-2409. Exemptions

14 This chapter does not apply to:

15 1. An officer or employee of the federal government, this state or a
16 political subdivision of this state, while engaged in the official
17 performance of the officer's or employee's duties.

18 2. A person, firm or corporation, or an employee of a person, firm or
19 corporation, engaged in the business of obtaining and furnishing financial
20 and related personal information for others, including a consumer reporting
21 agency as defined in the fair credit reporting act (15 United States Code
22 section 1681a), if the person, firm or corporation does not engage in other
23 investigative research that is an investigative consumer report as defined in
24 the fair credit reporting act (15 United States Code section 1681a) and if
25 the employee is not employed or connected with any private investigator or
26 private investigator's business.

27 3. A practicing attorney involved in a case for which the attorney has
28 been retained or a person employed under an employee-employer relationship
29 with a practicing attorney, in the employee's performance of duties related
30 to a case for which the attorney has been retained.

31 4. A collection agency licensed in this state, or its employee while
32 acting within the scope of employment, while making an investigation
33 incidental to the business of the agency, including an investigation of the
34 location of a debtor or the debtor's property if the contract with an
35 assignor creditor is for the collection of claims owed or due or asserted to
36 be owed or due or its equivalent.

37 5. Insurance ~~brokers~~ PRODUCERS, adjusters and agents licensed by this
38 state in performing their duties in connection with insurance transacted by
39 them.

40 6. The legal owner of personal property that has been sold under a
41 sales agreement in making investigations relating to the sales agreement.

42 7. A member of the news media and its employees when engaged in
43 obtaining information for the purpose of disseminating news to the public.

44 8. Public service corporations engaged in transmitting messages,
45 furnishing public telegraph or telephone service or investigating the use or

1 misuse of their equipment and facilities or the use or misuse of the
2 equipment and facilities of any connecting telecommunications company.

3 9. Private process servers who are duly registered and performing
4 their duties pursuant to the Arizona rules of civil procedure.

5 10. A person, firm or corporation, or an employee of a person, firm or
6 corporation, that, for any consideration, observes consumer purchases of
7 products or services in the public environments of a business establishment
8 for the purpose of evaluating customer service, operational procedures,
9 cleanliness, product quality and availability if all of the following apply:

10 (a) The information is obtained from questionnaires that the business
11 establishment approves in advance of use.

12 (b) The obtained information is used for employee training or
13 incentives.

14 (c) The obtained information is not used for prosecution of an
15 employee.

16 (d) The business establishment does not use a single evaluation as the
17 only basis for an employee's termination from employment.

18 11. A person or entity that is performing duties pursuant to statute
19 and that is certified or registered by the supreme court.

20 Sec. 3. Section 32-2457, Arizona Revised Statutes, is amended to read:

21 32-2457. Grounds for disciplinary action; emergency summary
22 suspension; judicial review

23 A. The following constitute grounds for which disciplinary action
24 specified in subsection B of this section may be taken against a licensee or
25 registrant or, if the licensee is other than an individual, against the
26 licensee's qualifying party or any of its associates, directors or managers:

27 1. Fraud or wilful misrepresentation in applying for an original
28 license or registration or the renewal of an existing license or
29 registration.

30 2. Using any letterhead, advertisement or other printed matter in any
31 manner or representing that the licensee, associate, registrant or employee
32 of the licensee is an instrumentality of the federal government, a state or
33 any political subdivision of a state.

34 3. Using a name that is different from that under which the licensee,
35 associate, registrant or employee of the licensee is currently licensed for
36 any advertisement, solicitation or contract to secure business unless the
37 name is an authorized fictitious name.

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

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

44 6. Falsifying fingerprints, photographs or other documents while
45 operating under this chapter.

46 7. Conviction of a felony.

- 1 8. Conviction of any act involving a weapon pursuant to section
2 13-3102.
- 3 9. Conviction of any act of personal violence or force against any
4 person or conviction of threatening to commit any act of personal violence or
5 force against any person.
- 6 10. Soliciting business for an attorney in return for compensation.
- 7 11. Conviction of any act constituting dishonesty or fraud.
- 8 12. Being on parole, on community supervision, on work furlough, on
9 home arrest, on release on any other basis or named in an outstanding arrest
10 warrant.
- 11 13. Serving a term of probation pursuant to a conviction for any act of
12 personal violence or domestic violence as defined in section 13-3601 or an
13 offense that has the same elements as a domestic violence offense listed in
14 section 13-3601, subsection A.
- 15 14. Committing or knowingly permitting any employee to commit any
16 violation of this chapter or rules adopted pursuant to this chapter.
- 17 15. Wilfully failing or refusing to render to a client services or a
18 report as agreed between the parties and for which compensation has been paid
19 or tendered in accordance with the agreement of the parties.
- 20 16. The unauthorized release of information acquired on behalf of a
21 client by a licensee, associate or registrant as a result of activities
22 regulated under this chapter.
- 23 17. Failing or refusing to cooperate with or refusing access to an
24 authorized representative of the department engaged in an official
25 investigation pursuant to this chapter.
- 26 18. Employing or contracting with any unregistered or improperly
27 registered person or unlicensed or improperly licensed person or agency to
28 conduct activities regulated under this chapter if the licensure or
29 registration status was known or could have been ascertained by reasonable
30 inquiry.
- 31 19. Permitting, authorizing, aiding or in any way assisting a
32 registered employee to conduct services as described in this chapter on an
33 independent contractor basis and not under the authority of the licensed
34 agency.
- 35 20. Failing to maintain in full force and effect workers' compensation
36 insurance, if applicable.
- 37 21. Conducting private investigation services regulated by this chapter
38 on an expired, revoked or suspended license or registration.
- 39 22. Accepting employment, contracting or in any way engaging in
40 employment that has an adverse impact on investigations being conducted on
41 behalf of clients.
- 42 23. Advertising in a false, deceptive or misleading manner.
- 43 24. Failing to display on request the identification card issued by the
44 department as required under section 32-2451, subsection B.
- 45 25. Committing any act of unprofessional conduct.

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

5 27. FAILING TO MAINTAIN ALL QUALIFICATIONS AS PRESCRIBED BY SECTIONS
6 32-2422 AND 32-2441, AS APPLICABLE.

7 B. On completion of an investigation, the director:

8 1. May dismiss the case.

9 2. May take emergency action.

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

11 4. May forward the findings to the board for review and possible
12 disciplinary action.

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

16 6. MAY SUSPEND THE LICENSE OR REGISTRATION OF A PERSON WHO IS ARRESTED
17 FOR AN OFFENSE THAT IS LISTED IN THIS CHAPTER AND THAT WOULD DISQUALIFY THE
18 PERSON FROM OBTAINING A LICENSE OR REGISTRATION.

19 C. A letter of concern is a public document and may be used in future
20 disciplinary actions against a licensee.

21 D. If the department finds, based on its investigation, that the
22 public health, safety or welfare requires emergency action, the director may
23 order a summary suspension of a license or registration pending proceedings
24 for revocation or other action. If the director issues this order, the
25 department shall serve the licensee or registrant with a written notice of
26 complaint and formal hearing, setting forth the charges made against the
27 licensee or registrant and the licensee's or registrant's right to a formal
28 hearing before the board pursuant to title 41, chapter 6, article 10.

29 E. If the department finds, based on its investigation, that a
30 violation of subsection A of this section occurred, a hearing by the board
31 may be scheduled pursuant to title 41, chapter 6, article 10. The department
32 shall send notice of the hearing by certified mail, return receipt requested,
33 to the licensee's or registrant's last known address in the department's
34 records.

35 F. Based on information the board receives during a hearing pursuant
36 to title 41, chapter 6, article 10, it may recommend to the director that the
37 director:

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

39 2. Fix a period and terms of probation best adapted to protect the
40 public health and safety and to rehabilitate or educate the licensee or
41 registrant.

42 3. ~~Place~~ SUSPEND the license or registration ~~on suspension~~ for a
43 period of not more than twelve months.

44 4. Revoke the license or registration.

45 G. On a finding by the board and review and concurrence by the
46 director that a licensee or registrant committed a violation of subsection A

1 of this section, the probation, suspension or revocation applies to all
2 licenses or registrations held by a licensee or registrant under this chapter
3 **AND CHAPTER 26 OF THIS TITLE.**

4 H. Except as provided in section 41-1092.08, subsection H, a person
5 may appeal a final administrative decision made pursuant to this section to
6 the superior court pursuant to title 12, chapter 7, article 6.

7 Sec. 4. Title 32, chapter 24, article 4, Arizona Revised Statutes, is
8 amended by adding section 32-2462, to read:

9 **32-2462. Notice of arrest**

10 **WITHIN FORTY-EIGHT HOURS AFTER BEING ARRESTED, A PRIVATE INVESTIGATOR**
11 **OR A QUALIFYING PARTY SHALL NOTIFY THE EMPLOYER AGENCY OF THE ARREST. WITHIN**
12 **TWENTY-FOUR HOURS AFTER RECEIVING NOTICE OF THE ARREST, THE EMPLOYER AGENCY**
13 **SHALL NOTIFY THE DEPARTMENT OF THE ARREST.**

14 Sec. 5. Section 32-2616, Arizona Revised Statutes, is amended to read:

15 **32-2616. Qualifying party; responsibilities**

16 A. An applicant for an agency license shall have a qualifying party.

17 B. For a sole proprietorship, the qualifying party shall be the agency
18 licensee.

19 C. For a partnership, corporation or limited liability company, the
20 qualifying party shall be the individual who is liable for managing the
21 agency. All other partners or corporate officers shall register as
22 associates pursuant to article 3 of this chapter.

23 D. If the qualifying party lives outside this state, the qualifying
24 party shall designate a resident manager who is a manager of the agency, who
25 maintains full-time legal residency in this state and who meets the
26 requirements of sections 32-2612 and 32-2613.

27 E. If required, the qualifying party shall maintain workers'
28 compensation insurance **AND LIABILITY INSURANCE** in effect **AS PRESCRIBED BY**
29 **SECTION 32-2613, SUBSECTION C.**

30 Sec. 6. Section 32-2636, Arizona Revised Statutes, is amended to read:

31 **32-2636. Grounds for disciplinary action; emergency summary**
32 **suspension; judicial review**

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

36 1. Using any letterhead, advertisement or other printed matter to
37 represent, or in any other manner representing, that the licensee,
38 registrant, ~~OR~~ qualifying party or **ITS** associate, director or manager is an
39 instrumentality of the federal government or any state or political
40 subdivision of a state.

41 2. Using a name that is different from that under which the licensee,
42 registrant, ~~OR~~ qualifying party or **ITS** associate, director or manager is
43 currently licensed or registered for any advertisement, solicitation or
44 contract to secure business under this chapter unless the name is an
45 authorized fictitious name.

- 1 3. Falsifying fingerprints, photographs or other documents while
2 operating pursuant to this chapter.
- 3 4. Impersonating, or permitting or aiding and abetting an employee to
4 impersonate, a law enforcement officer or employee of the United States or
5 any state or political subdivision of a state.
- 6 5. Knowingly violating, or advising, encouraging or assisting in the
7 violation of, any statute, court order, warrant or injunction in the course
8 of business as a licensee or registrant under this chapter.
- 9 6. Committing or knowingly permitting any employee to commit any
10 violation of this chapter or rules adopted pursuant to this chapter.
- 11 7. Committing an act of misconduct involving a weapon pursuant to
12 section 13-3102.
- 13 8. Conviction of a felony.
- 14 9. Conviction of any act of personal violence or force against any
15 person or conviction of threatening to commit any act of personal violence or
16 force against any person.
- 17 10. Fraud or wilful misrepresentation in applying for an original
18 license or registration or the renewal of an existing license or
19 registration.
- 20 11. Soliciting business for an attorney in return for compensation.
- 21 12. Conviction of any act constituting fraud.
- 22 13. Being on parole, on community supervision, on work furlough, on
23 home arrest, on release on any other basis or named in an outstanding arrest
24 warrant.
- 25 14. Serving a term of probation pursuant to a conviction for any act of
26 personal violence or domestic violence as defined in section 13-3601 or an
27 offense that has the same elements as a domestic violence offense listed in
28 section 13-3601, subsection A.
- 29 15. Wilfully failing or refusing to render client services or a report
30 as agreed between the parties and for which compensation has been paid or
31 tendered pursuant to the agreement of the parties.
- 32 16. The unauthorized release of information acquired on behalf of a
33 client by a licensee, associate or registrant as a result of activities
34 regulated under this chapter.
- 35 17. Failing or refusing to cooperate with or refusing access to an
36 authorized representative of the department engaged in an official
37 investigation pursuant to this chapter.
- 38 18. Employing or contracting with any unregistered or improperly
39 registered person or unlicensed or improperly licensed person or agency to
40 conduct activities regulated under this chapter if the licensure or
41 registration status was known or could have been ascertained by reasonable
42 inquiry.
- 43 19. Permitting, authorizing, aiding or in any way assisting a
44 registered employee to conduct services as described in this chapter on an
45 independent contractor basis and not under the authority of the licensed
46 agency.

1 20. Failing to maintain in full force and effect workers' compensation
2 insurance, if applicable, **OR LIABILITY INSURANCE AS PRESCRIBED BY SECTION**
3 **32-2613, SUBSECTION C.**

4 21. Conducting security guard services regulated by this chapter on an
5 expired, revoked or suspended license or registration.

6 22. Accepting employment, contracting or in any way engaging in
7 employment that has an adverse impact on security guard services being
8 conducted on behalf of clients.

9 23. Advertising in a false, deceptive or misleading manner.

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

12 25. Committing any act of unprofessional conduct.

13 26. Being arrested for any offense listed in this chapter that would
14 disqualify the licensee, registrant, ~~OR~~ **OR** qualifying party or any of its
15 associates, directors or managers from obtaining a license or registration.

16 **27. FAILING TO MAINTAIN ALL QUALIFICATIONS AS PRESCRIBED BY SECTIONS**
17 **32-2612 AND 32-2622, AS APPLICABLE.**

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

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

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

29 1. May dismiss the case.

30 2. May take emergency action.

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

32 4. May forward the findings to the board for review and possible
33 disciplinary action.

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

37 6. ~~Shall~~ **MAY** suspend the license or registration of a person who is
38 arrested for an offense **THAT IS** listed in this chapter **AND** that would
39 disqualify the person from obtaining a license or registration.

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

42 F. If the department finds, based on its investigation, that the
43 public health, safety or welfare requires emergency action, the director may
44 order a summary suspension of a license or registration pending proceedings
45 for revocation or other action. If the director issues this order, the
46 department shall serve the licensee or registrant with a written notice of

1 complaint and formal hearing, setting forth the charges made against the
2 licensee or registrant and the licensee's or registrant's right to a formal
3 hearing before the board pursuant to title 41, chapter 6, article 10.
4 G. If the department finds, based on its investigation, that a
5 violation of subsection A of this section occurred, a hearing by the board
6 may be scheduled pursuant to title 41, chapter 6, article 10. Notice of the
7 hearing shall be sent by certified mail, return receipt requested, to the
8 licensee's or registrant's last known address in the department's files.
9 H. Based on information the board receives during a hearing pursuant
10 to title 41, chapter 6, article 10, it may recommend to the director that the
11 director:
12 1. Dismiss the complaint if the board believes it is without merit.
13 2. Fix a period and terms of probation best adapted to protect the
14 public health and safety and to rehabilitate or educate the licensee or
15 registrant.
16 3. ~~Place~~ SUSPEND the license or registration ~~on suspension~~ for a
17 period of not more than twelve months.
18 4. Revoke the license or registration.
19 I. The director shall review the records of a finding by the board
20 involving a disciplinary action and may affirm, reverse, adopt, modify,
21 supplement, amend or reject the recommendation of the board. On a finding by
22 the board and review and concurrence by the director that a licensee or
23 registrant committed a violation of subsection A of this section, the
24 probation, suspension or revocation applies to all licenses or registrations
25 held by a licensee or registrant under CHAPTER 24 OF THIS TITLE AND this
26 chapter.

APPROVED BY THE GOVERNOR MARCH 30, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2015.