

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 269\*

Short Title: Private Protective Services.

(Public)

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Sponsors: Representatives McLaughlin; Barnhill, Black, Bowman, Cunningham, Easterling, Foster, Grimmer, and Nesbitt.

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Referred to: State Government.

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March 19, 1991

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE PRIVATE PROTECTIVE SERVICES ACT TO  
2 REQUIRE REGISTRATION OF PROPRIETARY UNARMED GUARDS, TWO-  
3 YEAR TERMS FOR LICENSES AND REGISTRATIONS, AND TO INCREASE  
4 FEES.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 74C-3 reads as rewritten:

8 **"§ 74C-3. Private protective services profession defined.**

9 (a) As used in this Chapter, the term 'private protective services profession'  
10 means and includes the following:

11 (1) 'Armored car profession' means any person, firm, association, or  
12 corporation which provides secured transportation and protection from  
13 one place or point to another place or point of money, currency, coins,  
14 bullion, securities, checks, documents, stocks, bonds, jewelry,  
15 paintings, and other valuables for a fee or other valuable consideration.  
16 This definition does not include a person operating an armored car  
17 business pursuant to a motor carrier certificate or permit issued by the  
18 North Carolina Utilities Commission which grants operating rights for  
19 such business; however, armed armored car service guards shall be  
20 subject to the provisions of G.S. 74C-13.

21 (2) Repealed by Session Laws 1983, c. 786, s. 2, effective January 1,  
22 1984.

- 1           (3) 'Counterintelligence service profession' means any person, firm,  
2           association, or corporation which discovers, locates, or disengages by  
3           electronic, electrical, or mechanical means any listening or other  
4           monitoring equipment surreptitiously placed to gather information  
5           concerning any individual, firm, association, or corporation for a fee or  
6           other valuable consideration.
- 7           (4) 'Courier service profession' means any person, firm, association, or  
8           corporation which transports or offers to transport from one place or  
9           point to another place or point documents, papers, maps, stocks, bonds,  
10          checks, or other small items of value which require expeditious service  
11          for a fee or other valuable consideration. This definition does not  
12          include a person operating a courier service pursuant to a motor carrier  
13          certificate or permit issued by the North Carolina Utilities Commission  
14          which grants operating rights for such service; however, armed courier  
15          service guards shall be subject to the provisions of G.S. 74C-13.
- 16          (5) 'Detection of deception examiner' means any person, firm, association,  
17          or corporation which uses any device or instrument, regardless of its  
18          name or design, for the purpose of the detection of deception or any  
19          person who reviews the work product of an examiner including charts,  
20          tapes or other methods of record keeping for the purpose of detecting  
21          deception or determining accuracy.
- 22          (6) 'Security guard and patrol profession' means any person, firm,  
23          association, or corporation that provides a security guard on a  
24          contractual basis for another person, firm, association, or corporation  
25          for a fee or other valuable consideration and performing one or more  
26          of the following functions:  
27              a. Prevention or detection of intrusion, entry, larceny, vandalism,  
28              abuse, fire, or trespass on private property;  
29              b. Prevention, observation, or detection of any unauthorized  
30              activity on private property;  
31              c. Protection of patrons and persons lawfully authorized to be on  
32              the premises of the person, firm, association, or corporation that  
33              entered into the contract for security services; or  
34              d. Control, regulation, or direction of the flow or movement of the  
35              public, whether by vehicle or otherwise, only to the extent and  
36              for the time directly and specifically required to assure the  
37              protection of properties.
- 38          (7) 'Guard-dog service profession' means any person, firm, association, or  
39          corporation which contracts with another person, firm, association, or  
40          corporation to place, lease, rent, or sell a trained dog for the purpose of  
41          protecting lives or property for a fee or other valuable consideration.
- 42          (8) 'Private detective' or 'private investigator' are synonymous and mean  
43          any person who engages in the profession of or accepts employment to

1 furnish, agrees to make, or makes inquiries or investigations  
2 concerning the below-listed topics on a contractual basis:

- 3 a. Crimes or wrongs done or threatened against the United States  
4 or any state or territory of the United States;  
5 b. The identity, habits, conduct, business, occupation, honesty,  
6 integrity, credibility, knowledge, trustworthiness, efficiency,  
7 loyalty, activity, movement, whereabouts, affiliations,  
8 associations, transactions, acts, reputation, or character of any  
9 person;  
10 c. The location, disposition, or recovery of lost or stolen property;  
11 d. The cause or responsibility for fires, libels, losses, accidents,  
12 damages, or injuries to persons or to properties;  
13 e. Securing evidence to be used before any court, board, officer, or  
14 investigative committee; or  
15 f. Protection of individuals from serious bodily harm or death.

16 (9) 'Special limited guard and patrol profession' means any person who is  
17 licensed under Chapter 74D of the General Statutes of North Carolina  
18 and provides armed alarm responders pursuant to G.S. 74C-13.  
19 Applicants for this limited license shall not be required to meet the  
20 experience requirements for a security guard and patrol license. Any  
21 experience gained under this limited license shall not be counted as  
22 experience for a security guard and patrol license.

23 (10) 'Proprietary security officer' means any individual who is employed, in  
24 an employer-employee relationship, by a business entity that does not  
25 provide, or advertise as providing, services regulated under this  
26 Chapter, and who performs security work on the premises of, or in  
27 connection with, the business of that employer, in an unarmed capacity  
28 and wearing a uniform or displaying a badge. If the employee is an  
29 armed security guard and wears, carries, or possesses a firearm in the  
30 performance of his duties, the provisions of G.S. 74C-13 apply.

31 (b) 'Private protective services' shall not mean:

- 32 (1) Licensed insurance adjusters legally employed as such and who  
33 engage in no other investigative activities unconnected with  
34 adjustment or claims against an insurance company;  
35 (2) An officer or employee of the United States, this State, or any political  
36 subdivision of either while such officer or employee is engaged in the  
37 performance of his official duties within the course and scope of his  
38 employment with the United States, this State, or any political  
39 subdivision of either;  
40 (3) A person engaged exclusively in the business of obtaining and  
41 furnishing information as to the financial rating or credit worthiness of  
42 persons; and a person who provides consumer reports in connection  
43 with:

- 1 a. Credit transactions involving the consumer on whom the  
2 information is to be furnished and involving the extensions of  
3 credit to the consumer,  
4 b. Information for employment purposes,  
5 c. Information for the underwriting of insurance involving the  
6 consumer,  
7 d. Information in connection with a determination of the  
8 consumer's eligibility for a license or other benefit granted by a  
9 governmental instrumentality required by law to consider an  
10 applicant's financial responsibility, or  
11 e. A legitimate business need for the information in connection  
12 with a business transaction involving the consumer;
- 13 (4) An attorney at law licensed to practice in North Carolina while  
14 engaged in such practice and his agent, provided said agent is  
15 performing duties only in connection with his principal's practice of  
16 law;
- 17 (5) The legal owner or lien holder, and his agents and employees, of  
18 personal property which has been sold in a transaction wherein a  
19 security interest in personal property has been created to secure the  
20 sales transaction, who engage in repossession of said personal  
21 property;
- 22 (6) Repealed by Session Laws 1989, c. 759, s. 3;
- 23 (7) Repealed by Session Laws 1981, c. 807, s. 1;
- 24 (8) Employees of a licensee who are employed exclusively as undercover  
25 agents; provided that for purposes of this section, undercover agent  
26 means an individual hired by another person, firm, association, or  
27 corporation to perform a job for that person, firm, association, or  
28 corporation and, while performing such job, to act as an undercover  
29 operative, employee, or independent contractor of a licensee, but under  
30 the supervision of a licensee;
- 31 (9) A person who is engaged in an alarm systems business subject to the  
32 provisions of Chapter 74D of the General Statutes;
- 33 (10) A person who obtains or verifies information regarding applicants for  
34 employment, with the knowledge and consent of the applicant, and is  
35 (i) engaged in business as a private personnel service as defined in  
36 G.S. 95-47.1 or engaged in business as a private employer fee pay  
37 personnel service, (ii) engaged in the business of obtaining or verifying  
38 information regarding applicants for employment, or (iii) an employer  
39 with whom the applicant has applied for employment;
- 40 (11) A person who conducts efficiency studies. An efficiency study is an  
41 analysis of an employer's business, made at the request of the  
42 employer, to determine one or more of the following:
- 43 a. The most efficient procedures by which an employee of the  
44 business can perform the employee's assigned duties.

1           b.       The adequacy of an employee's performance of the employee's  
2                   assigned duties that require interaction with a client or customer  
3                   of the business.

4           If a person making an efficiency study observes an instance of theft or  
5           another illegal act committed by an employee of the business, the  
6           person may report the instance to the employer without violating G.S.  
7           74C-3(a)(8);

8           (12) Research laboratories and consultants who analyze, test, or in any way  
9           apply their expertise to interpreting, evaluating, or analyzing facts or  
10           evidence submitted by another in order to determine the cause or effect  
11           of physical or psychological occurrences, and give their opinions and  
12           findings to the requesting source or to a designee of the requestor;

13           (13) ~~A person who works regularly and exclusively as an employee of an~~  
14           ~~employer in connection with the business affairs of that employer. If~~  
15           ~~the employee is an armed security guard and wears, carries, or~~  
16           ~~possesses a firearm in the performance of his duties, the provisions of~~  
17           ~~G.S. 74C-13 apply;~~

18           (14) An employee of a security department of a private business that  
19           conducts investigations exclusively on matters internal to the business  
20           affairs of the ~~business.~~ business, except as provided for in subsection  
21           (a)(10) of this section."

22           Sec. 2. G.S. 74C-9 reads as rewritten:

23   "**§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable;**  
24   **late renewal fee.**

25       (a)   The license when issued shall be in such form as may be determined by the  
26   Board and shall state:

- 27           (1)   The name of the licensee,  
28           (2)   The name under which the licensee is to operate, and  
29           (3)   The number and expiration date of the license.

30       (b)   The license shall be issued for a term of ~~one year.~~ two years. A trainee permit  
31   shall be issued for a term of ~~one year.~~ two years. All licenses must be renewed prior to  
32   the expiration of the term of the license. Following issuance, the license shall at all  
33   times be posted in a conspicuous place in the licensee's principal place of business, in  
34   North Carolina, unless for good cause exempted by the Administrator. A license issued  
35   under this Chapter is not assignable.

36       (c)   Repealed by Session Laws 1989, c. 759, s. 7.

37       (d)   The operator or manager of any branch office shall be properly licensed or  
38   registered. The license shall be posted at all times in a conspicuous place in the branch  
39   office. This license shall be issued for a term of ~~one year.~~ two years. Every business  
40   covered under the provisions of this Chapter shall file in writing with the Board the  
41   addresses of each of its branch offices, if any, within 10 working days after the  
42   establishment, closing, or changing of the location of any branch office. The  
43   Administrator may, upon the successful completion of an investigation of the

1 application, issue a temporary branch office license pending approval of the application  
2 by the Board.

3 (e) The Board is authorized to charge reasonable application and license fees as  
4 follows:

- 5 (1) A nonrefundable initial application fee in an amount not to exceed ~~one~~  
6 ~~hundred fifty dollars (\$150.00);~~ two hundred dollars (\$200.00);
- 7 (2) A new or renewal license fee in an amount not to exceed ~~two hundred~~  
8 ~~fifty dollars (\$250.00);~~ five hundred dollars (\$500.00);
- 9 (3) A new or renewal trainee permit fee in an amount not to exceed ~~two~~  
10 ~~hundred fifty dollars (\$250.00);~~ five hundred dollars (\$500.00);
- 11 (4) A new or renewal fee for each license or duplicate license in addition  
12 to the basic license referred to in subsection (2) in an amount not to  
13 exceed ~~fifty dollars (\$50.00);~~ one hundred dollars (\$100.00);
- 14 (5) A late renewal fee to be paid in addition to the renewal fee due in an  
15 amount not to exceed one hundred dollars (\$100.00), if the license has  
16 not been renewed on or before the expiration date of the licensee;
- 17 (6) A new, renewal, replacement or reissuance fee for an unarmed  
18 registration identification card in an amount not to exceed ~~thirty dollars~~  
19 ~~(\$30.00);~~ sixty dollars (\$60.00);
- 20 (7) An application fee for an armed security guard firearm registration  
21 permit not to exceed fifty dollars (\$50.00);
- 22 (8) A new, renewal, replacement, or reissuance fee for an armed security  
23 guard firearm registration permit not to exceed ~~thirty dollars (\$30.00);~~  
24 sixty dollars (\$60.00);
- 25 (9) An application fee for certification as a certified trainer not to exceed  
26 fifty dollars (\$50.00);
- 27 (10) A renewal or replacement fee for certified trainer certification not to  
28 exceed ~~twenty five dollars (\$25.00);~~ fifty dollars (\$50.00);
- 29 (11) A new nonresident temporary permit fee not to exceed one hundred  
30 dollars (\$100.00);
- 31 (12) An unarmed registration transfer fee not to exceed fifteen dollars  
32 (\$15.00);
- 33 (13) A new or renewal branch office license fee not to exceed ~~fifty dollars~~  
34 ~~(\$50.00);~~ one hundred dollars (\$100.00); and
- 35 (14) A new or renewal special limited guard and patrol license fee not to  
36 exceed ~~one hundred dollars (\$100.00);~~ two hundred dollars (\$200.00).

37 Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be  
38 expended, under the direction of the Board, for the purpose of defraying the expenses of  
39 administering this Chapter.

40 (f) A license or trainee permit granted under the provisions of this Chapter may  
41 be renewed by the Private Protective Services Board upon notification by the licensee or  
42 permit holder to the Administrator of intended renewal, the payment of the proper fee,  
43 and evidence of a policy of liability insurance as prescribed in G.S. 74C-10(e).

1 The renewal shall be finalized before the expiration date of the license. In no event  
2 will renewal be granted more than three months after the date of expiration of a license  
3 or trainee permit.

4 (g) Upon notification of approval of his application by the Board, an applicant  
5 must furnish evidence that he has obtained the necessary liability insurance required by  
6 G.S. 74C-10 and obtain the license applied for or his application shall lapse.

7 (h) Trainee permits shall not be issued to applicants that qualify for a private  
8 detective license. A licensed private detective may supervise no more than five trainees  
9 at any given time."

10 Sec. 3. G.S. 74C-11 reads as rewritten:

11 **"§ 74C-11. Registration of permanent and temporary employees; unarmed**  
12 **security guard required to have registration card.**

13 (a) All licensees shall register their employees who will be engaged in providing  
14 private protective services covered by this Chapter with the Board within 20 days after  
15 the employment begins, unless the Administrator, in his discretion, extends the time  
16 period, for good cause. To register an employee, a licensee must give the Board the  
17 following:

- 18 (1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards;  
19 recent photograph(s) of acceptable quality for identification; and  
20 (2) Statements of any criminal records obtained from the appropriate  
21 authority in each area where the employee has resided within the  
22 immediately preceding 48 months.

23 (b) ~~A Neither a security guard and patrol company-company, nor a proprietary~~  
24 ~~business,~~ may ~~not~~ employ an unarmed security guard unless the guard has a registration  
25 card issued under subsection (d) of this section. A person engaged in a private  
26 protective services profession may not employ an armed security guard unless the guard  
27 has a firearm registration permit issued under G.S. 74C-13.

28 (c) The Administrator shall be notified in writing of the termination of any  
29 employee registered under subsection (a) within 10 days after said termination.

30 (d) An unarmed security guard shall make application to the Administrator for an  
31 unarmed registration card which the Administrator shall issue to said applicant after  
32 receipt of the information required to be submitted by his employer pursuant to  
33 subsection (a), and after meeting any additional requirements which the Board, in its  
34 discretion, deems to be necessary. The unarmed security guard registration card shall be  
35 in the form of a pocket card designed by the Board, shall be issued in the name of the  
36 applicant, and may have the applicant's photograph affixed thereto. The unarmed  
37 security guard registration card shall expire ~~one year~~ two years after its date of issuance  
38 and shall be renewed every ~~year~~ two years. If an unarmed registered security guard is  
39 terminated by a licensee and changes employment to another security guard and patrol  
40 company, the security guard's registration card shall remain valid, provided the security  
41 guard pays the unarmed guard registration transfer fee to the Board and a new unarmed  
42 security guard registration card is issued. An unarmed security guard whose transfer  
43 registration application and transfer fee have been sent to the Board may work with a  
44 copy of the transfer application until the registration card is issued.

1 (e) Notwithstanding the provisions of this section, a licensee may employ a  
2 person properly registered or licensed as an unarmed security guard in another state for  
3 a period not to exceed 10 days in any given month; provided the licensee, prior to  
4 employing the unarmed security guard, submits to the Administrator the name, address,  
5 and social security number of the unarmed guard and the name of the state of current  
6 registration or licensing, and the Administrator approves the employment of the  
7 unarmed guard in this State.

8 (f) Notwithstanding the provisions of this section, a licensee may employ a  
9 person as an unarmed security guard for a period not to exceed 30 days in any given  
10 calendar year without registering that employee in accordance with this section;  
11 provided that the licensee submits to the Administrator a quarterly report, within 30  
12 days after the end of the quarter in which the temporary employee worked, which  
13 provides the Administrator with the name, address, social security number, and dates of  
14 employment of such employee."

15 Sec. 4. This act is effective upon ratification and applies to fees due and  
16 licenses issued or renewed on or after that date, except that proprietary security officers  
17 shall obtain a license or registration as required by this act no later than one year from  
18 the date of ratification of this act.