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SENATE BILL 621

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO LICENSING; RENAMING AND REVISING THE PRIVATE INVESTIGATORS AND POLYGRAPHERS ACT; IDENTIFYING REGULATED PERSONS; CREATING THE PRIVATE INVESTIGATIONS ADVISORY BOARD; CHANGING THE NAME OF THE PRIVATE INVESTIGATOR AND POLYGRAPHER FUND; PROVIDING PENALTIES; PROVIDING FEE LIMITATIONS; PROVIDING FOR A TRANSITION PERIOD; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-27A-1 NMSA 1978 (being Laws 1993, Chapter 212, Section 1, as amended) is amended to read:

"61-27A-1. SHORT TITLE.--Chapter 61, Article 27A NMSA 1978 may be cited as the "Private [~~Investigators and Polygraphers~~] Investigations Act"."

Section 2. Section 61-27A-2 NMSA 1978 (being Laws 1993,

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1 Chapter 212, Section 2, as amended) is amended to read:

2 "61-27A-2. DEFINITIONS.--As used in the Private

3 [~~Investigators and Polygraphers~~] Investigations Act:

4 [~~A. "alarm company" means a company that installs~~
5 ~~burglar or security alarms in a facility and responds with~~
6 ~~guards when the alarm is sounded;~~

7 ~~B.]~~ A. "armored car company" means a company that
8 knowingly and willingly transports money and other negotiables
9 for a fee or other remuneration;

10 [~~E.]~~ B. "bodyguard" means [~~a person~~] an individual
11 who physically performs the mission of personal security [~~of~~]
12 for another individual;

13 [~~D.]~~ C. "branch office" means an office of a
14 private investigation company or a private patrol company
15 physically located in New Mexico and managed, controlled or
16 directed by a private investigations manager or private patrol
17 operations manager;

18 [~~E.]~~ D. "client" means an individual or legal
19 entity having a contract that authorizes services to be
20 provided in return for financial or other consideration;

21 [~~F.]~~ E. "conviction" means any final adjudication
22 of guilty, whether pursuant to a plea of guilty or nolo
23 contendere or otherwise and whether or not the sentence is
24 deferred or suspended;

25 [~~G.]~~ F. "department" means the regulation and

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1 licensing department;

2 G. "individual" means a single human being;

3 H. "legal business entity" means a sole
4 proprietorship, corporation, partnership, limited liability
5 company, limited liability partnership or other entity formed
6 for business purposes;

7 ~~[H.] I. "licensee" means a person licensed [as a:~~

8 ~~(1) private investigator;~~

9 ~~(2) private patrol operator; or~~

10 ~~(3) polygraph examiner;~~

11 ~~I. "manager" means an individual who:~~

12 ~~(1) has the qualifications required of a~~
13 ~~licensee; and~~

14 ~~(2) directs, controls or manages a private~~
15 ~~investigator or private patrol operator business for the owner~~
16 ~~of the business when the owner does not qualify for a license~~
17 ~~under the Private Investigators and Polygraphers Act;~~

18 ~~J. "person" means any individual, firm, company,~~
19 ~~association, organization, partnership or corporation] pursuant~~
20 ~~to the Private Investigations Act;~~

21 J. "polygraph examiner" means an individual
22 licensed by the department to engage in the practice of
23 polygraphy;

24 K. "polygraphy" means [the employment of] the
25 process of employing an instrument designed to graphically

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1 record simultaneously the physiological changes in human
2 respiration, cardiovascular activity, galvanic skin resistance
3 or reflex for the purpose of lie detection and includes the
4 reading and interpretation of polygraphic records and results;

5 L. "private investigation company" means a legal
6 business entity that provides private investigation services,
7 the location of which may be within or outside of the state,
8 provided that the private investigation services are preformed
9 within New Mexico;

10 [~~L.~~] M. "private investigator" means [~~a person who~~
11 ~~for any consideration whatsoever engages in business or accepts~~
12 ~~employment to conduct an investigation for the purpose of~~
13 ~~obtaining information with reference to] an individual who is
14 licensed by the department to engage in business or who accepts
15 employment to conduct an investigation pursuant to the Private
16 Investigations Act to obtain information regarding:~~

17 (1) crime or wrongs done or threatened against
18 the United States or any state or territory of the United
19 States;

20 (2) [~~the identity, habits, conduct, business,~~
21 ~~occupation, honesty, integrity, credibility, knowledge,~~
22 ~~trustworthiness, efficiency, loyalty, activity, movement,~~
23 ~~whereabouts, affiliation, association, transactions, acts,~~
24 ~~reputation or character of any] a person;~~

25 (3) the location, disposition or recovery of

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1 lost or stolen property;

2 (4) the cause or responsibility for fires,
3 losses, accidents or damage or injury to persons or properties;
4 or

5 (5) the securing of evidence to be used before
6 [any] a court, administrative tribunal, board [officer] or
7 investigating committee or for a law enforcement officer;

8 ~~[M. "private investigator employee" means an~~
9 ~~individual who is working under the license and bond of a~~
10 ~~private investigator;]~~

11 N. "private investigations employee" means an
12 individual who is registered by the department to work under
13 the direct control and supervision of a private investigator
14 for a private investigation company;

15 O. "private investigations manager" means an
16 individual who:

17 (1) is licensed as a private investigator and
18 is issued a license by the department as a private
19 investigations manager;

20 (2) directs, controls or manages a private
21 investigation company for the owner of the company; and

22 (3) is assigned to and operates from the
23 private investigation company that the private investigations
24 manager is licensed to manage or from a branch office of that
25 private investigation company;

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1 P. "private patrol company" means a legal business
2 entity, the location of which may be within or outside of the
3 state, including an independent or proprietary commercial
4 organization that provides private patrol operator services
5 that are performed in New Mexico and the activities of which
6 include employment of licensed private patrol operators or
7 security guards;

8 Q. "private patrol employee" means an individual
9 who is registered by the department to work under the direct
10 control and supervision of a private patrol operator for a
11 private patrol company;

12 R. "private patrol operations manager" means an
13 individual who:

14 (1) is licensed as a private patrol operator
15 or registered as a level three security guard and is issued a
16 license by the department as a private patrol operations
17 manager;

18 (2) directs, controls or manages a private
19 patrol company for the owner of the company; and

20 (3) is assigned to and operates from the
21 private patrol company that the private patrol operations
22 manager is licensed to manage or from a branch office of that
23 private patrol company;

24 ~~[N.] S. "private patrol operator" [or "operator of~~
25 ~~a private patrol service"] means [a person who for any~~

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1 ~~consideration whatsoever agrees]~~ an individual who is licensed
2 by the department to:

3 (1) [~~furnish or furnishes a]~~ conduct uniformed
4 or nonuniformed services as a watchman, security guard or
5 patrolman [~~or other person]~~ to protect property and [~~any]~~
6 persons on or in the property;

7 (2) prevent the theft, unlawful taking, loss,
8 embezzlement, misappropriation or concealment of [~~any]~~ goods,
9 wares, merchandise, money, bonds, stocks, notes, documents,
10 papers or property of any kind; or

11 (3) perform the [~~service of]~~ services required
12 of a security guard [~~armored car company]~~ or security dog
13 [~~company]~~ handler or provide security services for an armored
14 car company;

15 [~~A private patrol operator may not make any investigation~~
16 ~~except those that are incidental to the theft, loss,~~
17 ~~embezzlement, misappropriation or concealment of any property~~
18 ~~or any other item enumerated in the Private Investigators and~~
19 ~~Polygraphers Act that he has been hired or engaged to protect,~~
20 ~~guard or watch;~~

21 O. ~~"security dog company" means a company that uses~~
22 ~~trained dogs with handlers to perform a security mission at a~~
23 ~~location; and]~~

24 T. "proprietary commercial organization" means an
25 organization or division of an organization that provides full-

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1 or part-time security guard services solely for itself;

2 U. "registrant" means an individual registered as a
3 private investigations employee, a private patrol operations
4 employee or a security guard at any level;

5 V. "security dog handler" means an individual who
6 trains or patrols with dogs to detect illegal substances or
7 explosives;

8 ~~[P.]~~ W. "security guard" means [any] an individual
9 who is [an employee of a private patrol operator and employed]
10 registered to engage in uniformed or nonuniformed services
11 under the direct control and supervision of a licensed private
12 patrol operator or a private patrol operations manager to
13 perform such security missions as watchman, fixed post guard,
14 dog handler, patrolman or other person to protect property or
15 prevent thefts; and

16 X. "special event" means a parade or other public
17 or private event of short duration requiring security."

18 Section 3. Section 61-27A-3 NMSA 1978 (being Laws 1993,
19 Chapter 212, Section 3) is amended to read:

20 "61-27A-3. LICENSE REQUIRED.--It is unlawful for [any
21 person] an individual to:

22 A. act as a private investigator, [a] private
23 patrol operator, security guard, private investigations
24 employee, private investigations manager or [a] private patrol
25 operations manager or to [represent himself to be] make any

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1 representation as being a licensee or [a manager] registrant
2 unless [he] the individual is licensed [under] by the
3 department pursuant to the Private [Investigators and
4 Polygraphers] Investigations Act;

5 B. render physical protection for remuneration as a
6 bodyguard unless [he] the individual is licensed as a private
7 investigator or a private patrol operator;

8 C. continue to act as a private investigator,
9 private patrol operator, security guard, private investigations
10 employee, private investigations manager or private patrol
11 operations manager if [his] the individual's license issued
12 pursuant to [~~that~~] the Private Investigations Act has expired;

13 D. falsely represent that [he] the individual is
14 employed by a licensee; or

15 E. practice polygraphy for any remuneration without
16 a license issued by the department in accordance with the
17 Private [~~Investigators and Polygraphers~~] Investigations Act."

18 Section 4. Section 61-27A-4 NMSA 1978 (being Laws 1993,
19 Chapter 212, Section 4) is amended to read:

20 "61-27A-4. PERSONS EXEMPTED.--The Private [~~Investigators~~
21 ~~and Polygraphers~~] Investigations Act does not apply to:

22 [~~A. attorneys;~~

23 [~~B. a person employed exclusively and regularly by~~
24 ~~one employer in connection with the affairs of such employer~~
25 ~~only where there exists an employer-employee relationship;]~~

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1 A. an attorney licensed in New Mexico conducting
2 private investigations while engaged in the practice of law;

3 ~~G.~~ B. an officer or employee of the United States
4 or this state or a political subdivision of the United States
5 or this state while that officer or employee is engaged in the
6 performance of ~~his~~ the officer's or employee's official
7 duties;

8 ~~D.~~ C. a person engaged exclusively in the
9 business of obtaining and furnishing information concerning the
10 financial rating of persons;

11 ~~E.~~ D. a charitable philanthropic society or
12 association duly incorporated under the laws of this state that
13 is organized and maintained for the public good and not for
14 private profit;

15 ~~F.~~ E. a licensed collection agency or an employee
16 ~~thereof~~ of the agency while acting within the scope of ~~his~~
17 employment while making an investigation incidental to the
18 business of the agency, including an investigation of the
19 location of a debtor or ~~his~~ the debtor's property;

20 ~~G.~~ F. admitted insurers, adjusters, agents and
21 insurance brokers licensed by the state performing duties in
22 connection with insurance transactions by them; or

23 ~~H. any~~ G. an institution subject to the
24 jurisdiction of the director of the financial institutions
25 division of the department or the comptroller of currency of

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1 the United States."

2 Section 5. Section 61-27A-5 NMSA 1978 (being Laws 1993,
3 Chapter 212, Section 5) is amended to read:

4 "61-27A-5. ADMINISTRATION OF ACT--RULES [~~AND~~
5 REGULATIONS].--

6 A. The department shall enforce and administer the
7 provisions of the Private [~~Investigators and Polygraphers~~]
8 Investigations Act.

9 [~~B. The department shall appoint an advisory board
10 to assist in the conduct of the examination process for
11 licensure and in any other manner to aid in the administration
12 of that act. The advisory board shall consist of two licensed
13 private investigators, one licensed private patrol operator,
14 one licensed polygraph examiner and one member of the public.
15 Members of the board shall be reimbursed as provided in the Per
16 Diem and Mileage Act.~~

17 ~~C.]~~ B. The department shall keep a record of each
18 individual licensee. [~~and each employee of a private
19 investigator or private patrol operator.~~

20 ~~D.]~~ C. The department shall adopt and enforce rules
21 [~~and regulations~~] necessary to carry out the provisions of the
22 Private [~~Investigators and Polygraphers~~] Investigations Act,
23 including [~~requirements for continuing education~~] establishing
24 professional ethical standards.

25 D. The department shall adopt rules regarding:

.163484.2

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1 (1) licensing private investigators, private
2 investigations managers, private investigation companies,
3 private patrol operators, private patrol operations managers,
4 private patrol employees and polygraph examiners;

5 (2) registering private investigations
6 employees, security guards and private patrol employees;

7 (3) establishing minimum training and
8 educational standards for licensure and registration;

9 (4) establishing continuing education
10 requirements;

11 (5) establishing and operating a branch
12 office;

13 (6) creating a policy on reciprocity with
14 other states and territories of the United States;

15 (7) providing permits for security guards for
16 special events; and

17 (8) conducting background investigations."

18 Section 6. A new section of the Private Investigations
19 Act, Section 61-27A-5.1 NMSA 1978, is enacted to read:

20 "61-27A-5.1. [NEW MATERIAL] PRIVATE INVESTIGATIONS
21 ADVISORY BOARD--CREATED--MEMBERS.--

22 A. The "private investigations advisory board" is
23 created.

24 B. The superintendent of regulation and licensing
25 shall appoint members to the advisory board to assist in the

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1 conduct of the examination process for licensees and
2 registrants and to assist the department in other manners as
3 requested by the superintendent or provided for in rules of the
4 department.

5 C. The advisory board members shall consist of at
6 least the following:

- 7 (1) two private investigators;
- 8 (2) one private patrol operator;
- 9 (3) one polygraph examiner; and
- 10 (4) one member of the public.

11 D. Members of the advisory board shall be
12 reimbursed pursuant to the Per Diem and Mileage Act and shall
13 receive no other compensation, perquisite or allowance for each
14 day spent in the discharge of their duties.

15 E. The public member of the advisory board or the
16 public member's spouse shall not:

17 (1) have been licensed pursuant to the Private
18 Investigations Act, the Private Investigators and Polygraphers
19 Act or any prior similar statutory provisions; or

20 (2) have a direct or indirect financial
21 interest in a private investigation company, private patrol
22 company, polygraph business or a related business."

23 Section 7. Section 61-27A-6 NMSA 1978 (being Laws 1993,
24 Chapter 212, Section 6, as amended) is amended to read:

25 "61-27A-6. REQUIREMENTS FOR LICENSURE.--

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1 A. The department shall issue a license [~~for~~] as a
2 private investigator to [~~a person~~] an individual who files a
3 completed application accompanied by the required fees and who
4 submits satisfactory evidence that the applicant has met all
5 requirements set forth by the department in rule, including
6 that the applicant:

7 (1) is at least [~~eighteen~~] twenty-one years of
8 age;

9 (2) is of good moral character;

10 (3) has successfully passed [~~a written~~] an
11 examination as [~~prescribed~~] required by [~~the~~] department rule;

12 [~~(4) has at least three years' experience~~
13 ~~within the last five years in investigative work or a level of~~
14 ~~experience determined to be sufficient by the department; and~~

15 ~~(5)]~~ (4) has not been convicted of a felony
16 offense or [~~a~~] other criminal offense [~~involving moral~~
17 ~~turpitude or the illegal use or possession of a deadly weapon]~~
18 and has not been found to have violated professional ethical
19 standards; and

20 [B. ~~The department shall issue a license for a~~
21 ~~private investigator manager to a person who files a completed~~
22 ~~application accompanied by the required fees and who submits~~
23 ~~satisfactory evidence that the applicant:~~

24 ~~(1) is at least eighteen years of age;~~

25 ~~(2) has passed a written examination as~~

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1 ~~prescribed by the department;~~

2 ~~(3) has at least three years' experience~~
3 ~~within the last five years in investigative work or a level of~~
4 ~~experience determined to be sufficient by the department;~~

5 ~~(4) is of good moral character; and~~

6 ~~(5) has not been convicted of a felony offense~~
7 ~~or a criminal offense involving moral turpitude or the illegal~~
8 ~~use or possession of a deadly weapon.~~

9 ~~C. The department shall issue a license for a~~
10 ~~private patrol operator to a person who files a completed~~
11 ~~application accompanied by the required fees and who submits~~
12 ~~satisfactory evidence that the applicant:~~

13 ~~(1) is at least eighteen years of age;~~

14 ~~(2) is of good moral character;~~

15 ~~(3) has passed a written examination as~~
16 ~~prescribed by the department;~~

17 ~~(4) has at least three years' experience~~
18 ~~within the last five years in security work or a level of~~
19 ~~experience determined to be sufficient by the department; and~~

20 ~~(5) has not been convicted of a felony offense~~
21 ~~or a criminal offense involving moral turpitude or the illegal~~
22 ~~use or possession of a deadly weapon.~~

23 ~~D. The department shall issue a license for a~~
24 ~~private patrol operator manager to a person who files a~~
25 ~~completed application accompanied by the required fees and who~~

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1 ~~submits satisfactory evidence that the applicant:~~

2 ~~(1) is at least eighteen years of age;~~

3 ~~(2) has passed a written examination as~~
4 ~~prescribed by the department;~~

5 ~~(3) has at least three years' experience~~
6 ~~within the last five years in security work or a level of~~
7 ~~experience determined to be sufficient by the department;~~

8 ~~(4) is of good moral character; and~~

9 ~~(5) has not been convicted of a felony offense~~
10 ~~or a criminal offense involving moral turpitude or the illegal~~
11 ~~use or possession of a deadly weapon.~~

12 ~~E. A manager's license is required when the owner~~
13 ~~of a private investigator or private patrol operator business~~
14 ~~does not qualify for a license under the Private Investigators~~
15 ~~and Polygraphers Act.~~

16 ~~F. The department shall issue a security guard~~
17 ~~pocket card to a person who files a completed application~~
18 ~~accompanied by the required fees and who submits satisfactory~~
19 ~~evidence that the applicant:~~

20 ~~(1) is at least eighteen years of age; and~~

21 ~~(2) is of good moral character.~~

22 ~~G. The department shall issue a license for~~
23 ~~polygrapher to a person who files a completed application~~
24 ~~accompanied by the required fees and who submits satisfactory~~
25 ~~evidence that the applicant:~~

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1 ~~(1) is at least eighteen years of age;~~
2 ~~(2) possesses a high school diploma or its~~
3 ~~equivalent;~~

4 ~~(3) has not been convicted of a felony or~~
5 ~~misdemeanor involving moral turpitude; and~~

6 ~~(4) has graduated from a polygraph examiners~~
7 ~~course approved by the department and:~~

8 ~~(a) has completed a probationary~~
9 ~~operational competency period and passed an examination of~~
10 ~~ability to practice polygraphy; or~~

11 ~~(b) has submitted proof of holding, for~~
12 ~~a minimum of two years immediately prior to the date of~~
13 ~~application, a current license to practice polygraphy in~~
14 ~~another jurisdiction whose standards equal or surpass those of~~
15 ~~New Mexico]~~

16 (5) has at least three years' experience that
17 has been acquired within the five years preceding the filing of
18 the application with the department, consisting of not less
19 than six thousand hours of actual work performed in:

20 (a) investigation for the purpose of
21 obtaining information with reference to a crime or wrongs done
22 or threatened against the United States;

23 (b) investigation of persons;

24 (c) the location, disposition or
25 recovery of lost or stolen property;

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1 (d) the cause or responsibility for
2 fire, losses, accidents or damage or injury to persons or
3 property; or

4 (e) securing evidence to be used before
5 a court, administrative tribunal, board or investigating
6 committee or for a law enforcement officer.

7 B. Years and hours of qualifying experience and the
8 precise nature of that experience shall be substantiated by
9 written certification from employers and shall be subject to
10 independent verification by the department as it deems
11 warranted. The burden of proving necessary experience is on
12 the applicant."

13 Section 8. A new section of the Private Investigations
14 Act, Section 61-27A-6.1 NMSA 1978, is enacted to read:

15 "61-27A-6.1. [NEW MATERIAL] PRIVATE INVESTIGATION
16 COMPANY--REQUIREMENTS FOR LICENSURE.--The department shall
17 issue a license for a private investigation company to a person
18 that files a completed application accompanied by the required
19 fees and that submits satisfactory evidence that the applicant:

20 A. if an individual, is of good moral character; or
21 if a legal business entity, the owners, officer or directors of
22 the entity are of good moral character;

23 B. if an individual, has not been convicted of a
24 felony offense or other criminal offense and has not been found
25 to have violated professional ethical standards; or if a legal

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1 business entity, the owners, officers or directors of the
2 entity have not been convicted of felony offenses or other
3 criminal offenses and have not been found to have violated
4 professional ethical standards;

5 C. maintains general liability insurance as
6 specified in the Private Investigations Act;

7 D. has an owner or a licensed private
8 investigations manager who is licensed as a private
9 investigator and who manages the daily operations of the
10 private investigation company;

11 E. maintains a physical location in New Mexico
12 where records are maintained and made available for department
13 inspection;

14 F. maintains a New Mexico registered agent if the
15 applicant is a private investigation company located outside of
16 New Mexico; and

17 G. meets all other requirements set forth in the
18 rules of the department."

19 Section 9. A new section of the Private Investigations
20 Act, Section 61-27A-6.2 NMSA 1978, is enacted to read:

21 "61-27A-6.2. [NEW MATERIAL] PRIVATE INVESTIGATIONS
22 MANAGER--REQUIREMENTS FOR LICENSURE--NOTIFICATION OF DEPARTMENT
23 IN EVENT OF TERMINATION OF EMPLOYMENT.--

24 A. The department shall issue a license for a
25 private investigations manager to an individual who files a

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1 completed application accompanied by the required fees and who
2 submits satisfactory evidence that the applicant:

3 (1) possesses a current license in good
4 standing as a private investigator;

5 (2) has successfully passed an examination
6 required by department rules;

7 (3) is employed by the private investigation
8 company that the applicant is being licensed to manage; and

9 (4) meets other requirements set forth in the
10 rules of the department.

11 B. A private investigations manager who ceases to
12 be employed by the private investigation company that the
13 manager is licensed to manage, before leaving the company,
14 shall surrender the private investigations manager's license to
15 the owner, officer or director who is required to temporarily
16 take over the management of the private investigation company.
17 The owner, officer or director who temporarily takes over
18 managing the private investigation company within thirty days
19 of the termination from employment of the private
20 investigations manager shall:

21 (1) notify the department of the termination
22 of the employment of the private investigations manager;

23 (2) submit the surrendered license; and

24 (3) submit an application to the department
25 naming a new private investigations manager, who shall not

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1 begin to perform the duties of a private investigations manager
2 until and unless the department grants the applicant a private
3 investigations manager's license.

4 C. Failure to notify the department within thirty
5 days of the private investigations manager's termination from
6 employment subjects the license of the private investigation
7 company to suspension or revocation by the department.

8 D. Reinstatement of the private investigation
9 company's license may occur only upon the filing of an
10 application for reinstatement and payment of the reinstatement
11 fee."

12 Section 10. A new section of the Private Investigations
13 Act, Section 61-27A-6.3 NMSA 1978, is enacted to read:

14 "61-27A-6.3. [NEW MATERIAL] PRIVATE PATROL OPERATOR--
15 REQUIREMENTS FOR LICENSURE.--

16 A. The department shall issue a license for a
17 private patrol operator to an individual who files a completed
18 application accompanied by the required fees and who submits
19 satisfactory evidence that the applicant:

- 20 (1) is at least twenty-one years of age;
21 (2) is of good moral character;
22 (3) has successfully passed an examination as
23 required by department rules;
24 (4) has not been convicted of a felony offense
25 or other criminal offense or has not been found to have

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1 violated professional ethical standards;

2 (5) has at least three years' experience of
3 not less than six thousand hours of actual work performed as a
4 security guard or an equivalent position, one year of which
5 shall have been in a supervisory capacity. The experience
6 shall have been acquired within five years preceding the filing
7 of the application with the department. Years and hours of
8 qualifying experience and the precise nature of that experience
9 shall be substantiated by written certification from the
10 applicant's employers and shall be subject to independent
11 verification by the department as it determines is warranted.

12 The burden of proving necessary experience is on the applicant;

13 (6) is firearm certified, if the position will
14 require being armed with a firearm; and

15 (7) meets other requirements set forth in
16 rules of the department.

17 B. A private patrol operator may not investigate
18 acts except those that are incidental to a theft, embezzlement,
19 loss, misappropriation or concealment of property or other item
20 that the private patrol operator has been engaged or hired to
21 protect, guard or watch."

22 Section 11. A new section of the Private Investigations
23 Act, Section 61-27A-6.4 NMSA 1978, is enacted to read:

24 "61-27A-6.4. [NEW MATERIAL] PRIVATE PATROL COMPANY--
25 REQUIREMENTS FOR LICENSURE.--The department shall issue a

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1 license for a private patrol company to a person who files a
2 completed application accompanied by the required fees and who
3 submits satisfactory evidence that the applicant:

4 A. if an individual, is of good moral character; or
5 if a legal business entity, the owners, officers or directors
6 of the entity are of good moral character;

7 B. if an individual, has not been convicted of a
8 felony offense or other criminal offense and has not been found
9 to have violated professional ethical standards, or if a legal
10 business entity, the owners, officers or directors of the
11 entity have not been convicted of felony offenses or other
12 criminal offenses and have not been found to have violated
13 professional ethical standards;

14 C. maintains general liability insurance as
15 specified in the Private Investigations Act;

16 D. has an owner or a licensed private patrol
17 operations manager who manages the daily operations of the
18 private patrol company;

19 E. maintains a physical location in New Mexico
20 where records are maintained and made available for department
21 inspection;

22 F. maintains a New Mexico registered agent if the
23 applicant is a private patrol company located outside of New
24 Mexico; and

25 G. meets all other requirements set forth in the

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1 rules of the department."

2 Section 12. A new section of the Private Investigations
3 Act, Section 61-27A-6.5 NMSA 1978, is enacted to read:

4 "61-27A-6.5. [NEW MATERIAL] PRIVATE PATROL OPERATIONS
5 MANAGER--REQUIREMENT FOR LICENSURE--NOTIFICATION OF DEPARTMENT
6 IN EVENT OF TERMINATION OF EMPLOYMENT.--

7 A. The department shall issue a license for a
8 private patrol operations manager to an individual who files a
9 completed application accompanied by the required fees and who
10 submits satisfactory evidence that the applicant:

11 (1) possesses a current license in good
12 standing as a private patrol operator or a registration as a
13 level three security guard;

14 (2) has successfully passed an examination
15 required by department rule;

16 (3) is employed by the private patrol company
17 that the applicant is being licensed to manage; and

18 (4) meets other requirements set forth in the
19 rules of the department.

20 B. A private patrol operations manager who ceases
21 to be employed by the private patrol company that the manger is
22 licensed to manage, before leaving the company, shall surrender
23 the private patrol operations manager's license to the owner,
24 officer or director who is required to temporarily take over
25 the management of the private patrol company. The owner,

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1 officer or director who temporarily takes over managing the
2 private patrol company within thirty days of the termination
3 from employment of the private patrol operations manager shall:

4 (1) notify the department of the termination
5 of the employment of the private patrol operations manager;

6 (2) submit the surrendered license; and

7 (3) submit an application to the department
8 naming a new private patrol operations manager, who shall not
9 begin to perform the duties of a private patrol operations
10 manager until the department grants the applicant a private
11 patrol operations manager's license.

12 C. Failure to notify the department within thirty
13 days of the private patrol operations manager's termination
14 from employment subjects the license of the private patrol
15 company to suspension or revocation by the department.

16 D. Reinstatement of the private patrol company's
17 license may occur only upon the filing of an application for
18 reinstatement and payment of the reinstatement fee."

19 Section 13. A new section of the Private Investigations
20 Act, Section 61-27A-6.6 NMSA 1978, is enacted to read:

21 "61-27A-6.6. [NEW MATERIAL] POLYGRAPH EXAMINER.--The
22 department shall issue a license as a polygraph examiner to an
23 individual who files a completed application accompanied by the
24 required fees and who submits satisfactory evidence that the
25 applicant:

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- 1 A. is at least eighteen years of age;
- 2 B. is of good moral character;
- 3 C. possesses a high school diploma or its
- 4 equivalent;
- 5 D. has not been convicted of a felony or other
- 6 criminal offense and has not been found to have violated
- 7 professional ethical standards;
- 8 E. has graduated from an accredited polygraph
- 9 examiners course approved by the department;
- 10 F. has:
- 11 (1) completed a probationary operational
- 12 competency period and passed an examination of ability approved
- 13 by the department to practice polygraphy; or
- 14 (2) submitted proof of holding, for a minimum
- 15 of two years immediately preceding the date of application, a
- 16 current license to practice polygraphy in another jurisdiction
- 17 whose standards are equal to or greater than those in New
- 18 Mexico; and
- 19 G. meets other requirements set forth in the rules
- 20 of the department."

21 Section 14. A new section of the Private Investigations

22 Act, Section 61-27A-6.7 NMSA 1978, is enacted to read:

23 "61-27A-6.7. [NEW MATERIAL] PRIVATE INVESTIGATIONS

24 EMPLOYEE--REGISTRATION--REQUIREMENTS.--

25 A. On or after July 1, 2007, every individual who

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1 seeks employment or is currently employed as a private
2 investigations employee shall file an application for
3 registration with the department.

4 B. The department shall issue a registration for a
5 private investigations employee to an individual who files a
6 completed application accompanied by the required fees and who
7 submits satisfactory evidence that the applicant:

- 8 (1) is at least eighteen years of age;
- 9 (2) is of good moral character;
- 10 (3) possesses a high school diploma or its
11 equivalent;
- 12 (4) has successfully completed an examination
13 as required by department rule;
- 14 (5) has not been convicted of a felony or
15 other criminal offense and has not been found to have violated
16 professional ethical standards;
- 17 (6) shall be employed by a private
18 investigation company, under the direct control and supervision
19 of a private investigator; and
- 20 (7) meets other requirements set forth in
21 rules of the department.

22 C. If the employment of a private investigations
23 employee with a private investigation company terminates for
24 any reason, the registration of the individual as a private
25 investigations employee immediately terminates. The private

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1 investigations employee shall turn over the employee's
2 registration to the private investigation company upon ceasing
3 employment with that company.

4 D. A private investigation company shall notify the
5 department within thirty days from the date of termination of
6 employment of a private investigations employee of the
7 employment termination and return the employee's registration
8 to the department."

9 Section 15. A new section of the Private Investigations
10 Act, Section 61-27A-6.8 NMSA 1978, is enacted to read:

11 "61-27A-6.8. [NEW MATERIAL] SECURITY GUARD--LEVELS OF
12 REGISTRATION.--A security guard shall be registered at one of
13 the three levels enumerated in this section that are based on
14 experience, age and other qualifications of the registrant:

15 A. level one is the entry level registration for
16 security guards who will be working in a position not requiring
17 the registrant to carry arms;

18 B. level two is the intermediate level registration
19 for security guards who are required to be armed but not with
20 firearms; and

21 C. level three is the advanced level registration
22 for security guards who may be required to be armed with a
23 firearm."

24 Section 16. A new section of the Private Investigations
25 Act, Section 61-27A-6.9 NMSA 1978, is enacted to read:

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1 "61-27A-6.9. [NEW MATERIAL] SECURITY GUARD--LEVEL ONE--
2 REGISTRATION--REQUIREMENTS.--

3 A. On or after July 1, 2007, every individual
4 seeking employment or employed as a level one security guard
5 shall file an application for registration with the department.

6 B. The department shall issue a registration for a
7 level one security guard to an individual who files a completed
8 application accompanied by the required fees and who submits
9 satisfactory evidence that the applicant:

10 (1) is at least eighteen years of age;

11 (2) is of good moral character;

12 (3) possesses a high school diploma or its
13 equivalent;

14 (4) has successfully completed an examination
15 as required by department rule;

16 (5) has not been convicted of a felony or
17 other criminal offense and has not been found to have violated
18 professional ethical standards;

19 (6) has completed a curriculum approved in
20 department rule consisting of at least sixteen hours of level
21 one security guard training prior to being placed on a guard
22 post for the first time as a level one security guard; that
23 training may be provided by a public educational institution in
24 New Mexico or an educational institution licensed by the higher
25 education department pursuant to the Post-Secondary Educational

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1 Institution Act;

2 (7) is employed by a private patrol company
3 under the direct supervision of a licensed private patrol
4 operator, a level three security guard or a private patrol
5 operations manager; and

6 (8) meets other requirements set forth in
7 department rules.

8 C. A private patrol company shall notify the
9 department within thirty days from the date of termination of a
10 level one security guard of the employment termination."

11 Section 17. A new section of the Private Investigations
12 Act, Section 61-27A-6.10 NMSA 1978, is enacted to read:

13 "61-27A-6.10. [NEW MATERIAL] SECURITY GUARD--LEVEL TWO--
14 REGISTRATION--REQUIREMENTS.--

15 A. On or after July 1, 2007, every individual
16 seeking employment or employed as a level two security guard
17 shall file an application for registration with the department.

18 B. The department shall issue a registration for a
19 level two security guard to an individual who files a completed
20 application accompanied by the required fees and who submits
21 satisfactory evidence that the applicant:

22 (1) meets the requirements to be granted
23 registration as a level one security guard and maintains in
24 good standing a current registration as a level one security
25 guard;

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1 (2) has successfully completed an examination
2 as required by department rule;

3 (3) in addition to the training required to be
4 registered as a level one security guard, has completed a
5 curriculum approved in department rule consisting of at least
6 sixteen additional hours of level two security guard training
7 prior to being placed on a guard post for the first time as a
8 level two security guard; that training may be provided by a
9 public educational institution or an educational institution
10 licensed by the higher education department pursuant to the
11 Post-Secondary Educational Institution Act;

12 (4) is employed by a private patrol company
13 under the direct supervision of a licensed private patrol
14 operator, a level three security guard or a private patrol
15 operations manager; and

16 (5) meets other requirements set forth in
17 department rules.

18 C. A private patrol company shall notify the
19 department within thirty days from the date of termination of a
20 level two security guard of the employment termination."

21 Section 18. A new section of the Private Investigations
22 Act, Section 61-27A-6.11 NMSA 1978, is enacted to read:

23 "61-27A-6.11. [NEW MATERIAL] SECURITY GUARD--LEVEL
24 THREE--REGISTRATION--REQUIREMENTS.--

25 A. On or after July 1, 2007, every individual

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1 seeking employment or employed as a level three security guard
2 shall file an application for registration with the department.

3 B. The department shall issue a registration for a
4 level three security guard to an individual who files a
5 completed application accompanied by the required fees and who
6 submits satisfactory evidence that the applicant:

7 (1) is at least twenty-one years of age;

8 (2) meets the requirements to be granted
9 registration as a level two security guard and maintains in
10 good standing a current registration as a level two security
11 guard;

12 (3) has successfully completed an examination
13 as required by department rule;

14 (4) in addition to the training required to be
15 registered as a level two security guard, has completed a
16 curriculum approved in department rule consisting of at least
17 sixteen additional hours of security guard training prior to
18 being placed on a guard post for the first time as a level
19 three security guard; that training may be provided by a public
20 educational institution or an educational institution licensed
21 by the higher education department pursuant to the Post-
22 Secondary Educational Institution Act;

23 (5) is firearm certified;

24 (6) is employed by a private patrol company
25 under the direct supervision of a licensed private patrol

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1 operator, another level three security guard or a private
2 patrol operations manager; and

3 (7) meets other requirements set forth in
4 department rules.

5 C. A private patrol company shall notify the
6 department within thirty days from the date of termination of a
7 level two security guard of the employment termination."

8 Section 19. A new section of the Private Investigations
9 Act, Section 61-27A-6.12 NMSA 1978, is enacted to read:

10 "61-27A-6.12. [NEW MATERIAL] SPECIAL EVENT PERMIT--
11 NONRESIDENT SECURITY GUARD PROCEDURE--QUALIFICATIONS--
12 PROHIBITED USE.--

13 A. A private patrol company employing a nonresident
14 security guard temporarily for a special event shall apply to
15 the department for and may be issued a special event permit for
16 each nonresident security guard qualified to be employed at the
17 special event.

18 B. A special event permit is issued for a specific
19 nonresident security guard and a specific special event and
20 shall not be transferred to another security guard or used for
21 a special event other than for the special event for which the
22 permit is issued.

23 C. To be issued a special event permit, a private
24 patrol company shall provide the department with a description
25 of the special event, its location and the dates on which the

.163484.2

1 temporary nonresident security guard will be employed to
2 provide services at the special event. A special event permit
3 shall bear the name of the private patrol company and contact
4 information, the name of the nonresident security guard, the
5 name of the special event for which it is issued, the dates of
6 the special event and other pertinent information required by
7 the department.

8 D. A special event permit shall be issued only to
9 an individual who qualifies for a level one or higher security
10 guard registration and who:

- 11 (1) is not a resident of New Mexico;
- 12 (2) does not hold a registration as a security
13 guard in New Mexico; and
- 14 (3) meets other requirements specified by the
15 department.

16 E. A special event permit requiring a security
17 guard to carry a firearm shall only be issued to an individual
18 who is qualified to be registered as a level three security
19 guard.

20 F. It is a violation of the Private Investigations
21 Act for a private patrol company to circumvent the registration
22 process for permanent or long-term part-time employment of
23 security guards through use of the provisions of this section."

24 Section 20. A new section of the Private Investigations
25 Act, Section 61-27A-7.1 NMSA 1978, is enacted to read:

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1 "61-27A-7.1. [NEW MATERIAL] FEES.--The department shall
2 establish a schedule of reasonable fees for the following:

3 A. an application fee, not to exceed one hundred
4 dollars (\$100);

5 B. a license fee, not to exceed five hundred
6 dollars (\$500);

7 C. a registration fee, not to exceed two hundred
8 fifty dollars (\$250);

9 D. a renewal fee, not to exceed five hundred
10 dollars (\$500);

11 E. a reinstatement fee, not to exceed five hundred
12 dollars (\$500);

13 F. a late fee, not to exceed one hundred dollars
14 (\$100); and

15 G. an administrative fee, not to exceed two hundred
16 dollars (\$200)."

17 Section 21. A new section of the Private Investigations
18 Act, Section 61-27A-8.1 NMSA 1978, is enacted to read:

19 "61-27A-8.1. [NEW MATERIAL] LICENSE AND REGISTRATION
20 RENEWAL.--

21 A. A license or registration granted pursuant to
22 the provisions of the Private Investigations Act shall be
23 renewed by the department annually unless the term of the
24 license is set by the department in rule to be a longer period.

25 B. A licensee or registrant with an expired license

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1 or registration shall not perform an activity for which a
2 license or registration is required pursuant to the Private
3 Investigations Act until the license or registration has been
4 renewed or reinstated.

5 C. The department may require proof of continuing
6 education credits or other proof of competency as a requirement
7 of renewal or reinstatement of a license or registration.

8 D. A license or registration issued to a person
9 pursuant to the Private Investigations Act shall not be
10 transferred or assigned."

11 Section 22. Section 61-27A-9 NMSA 1978 (being Laws 1993,
12 Chapter 212, Section 9) is amended to read:

13 "61-27A-9. DISPLAY OF LICENSE--NOTIFICATION OF CHANGES.--

14 A. A license shall at all times be posted in a
15 conspicuous place in the principal place of business in New
16 Mexico of the licensee.

17 ~~[B. A licensee shall notify the department within~~
18 ~~thirty days after any change in his address, in the name under~~
19 ~~which he does business or in the officers or partners of the~~
20 ~~business.]~~

21 B. A copy of the registration of each registrant
22 employed by a private investigation company or a private patrol
23 company shall be maintained in the main New Mexico office of
24 the company and in the branch office in which the registrant
25 works.

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1 C. A registration card issued by the department
2 shall at all times be in the possession of and located on the
3 person of a registrant.

4 D. A security guard shall wear the registration
5 card on the outside of the guard's uniform so that the card is
6 visible to others.

7 E. A licensee, including owners, officers or
8 directors of a private investigation company or a private
9 patrol company, or a registrant shall notify the department
10 immediately in writing of a change in the mailing or contact
11 address of the licensee or registrant.

12 F. Failure to notify the department within thirty
13 days of changes required to be reported pursuant to this
14 section or failure to carry or display a registration as
15 required is grounds for suspension of a license or
16 registration."

17 Section 23. A new section of the Private Investigations
18 Act, Section 61-27A-10.1 NMSA 1978, is enacted to read:

19 "61-27A-10.1. [NEW MATERIAL] GENERAL OPERATIONS
20 PROVISIONS OF COMPANIES--MANAGEMENT--LIABILITY FOR EMPLOYEES'
21 CONDUCT--MAINTENANCE OF RECORDS REQUIRED--REQUIRED AND
22 PERMITTED ACTIVITIES--ALLOWED CATEGORIES OF UNLICENSED
23 EMPLOYEES.--

24 A. An owner of a private investigation company
25 providing services in New Mexico shall operate, direct, control

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1 and manage that company provided that the owner is licensed as
2 a private investigator. An owner of a private investigation
3 company who is not licensed as a private investigator shall
4 employ a private investigator as a private investigations
5 manager and shall turn over the operation, direction, control
6 and management of the private investigation company to that
7 manager.

8 B. An owner of a private patrol company providing
9 services in New Mexico shall operate, direct, control and
10 manage that company, provided that the owner is licensed as a
11 private patrol operator or registered as a level three security
12 guard. An owner of a private patrol company who is not
13 licensed as a private patrol operator or registered as a level
14 three security guard shall employ a private patrol operations
15 manager and shall turn over the operation, direction, control
16 and management of the private patrol company to that manager.

17 C. A private investigation company or a private
18 patrol company shall not conduct business under a fictitious
19 name until the company has obtained the authorization for use
20 of the name from the department. The department shall not
21 authorize the use of a fictitious name that may generate public
22 confusion with the name of a public officer or agency or the
23 name of an existing private investigation company or private
24 patrol company.

25 D. A private investigation company is liable for

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1 the conduct of the company's employees, including the conduct
2 of its private investigations manager.

3 E. A private patrol company is liable for the
4 conduct of the company's employees, including the conduct of
5 its private patrol operations manager.

6 F. A private investigation company or a private
7 patrol company shall maintain records of the qualifications,
8 performance and training of all of its current and former
9 employees as required by the department. The records are
10 subject to inspection by the department upon reasonable notice
11 to the owner or private investigations manager or private
12 patrol operations manager.

13 G. Except as otherwise provided in this section,
14 every employee of a licensed private investigation company or
15 private patrol company shall be licensed or registered by the
16 department as employees of the company with which the employee
17 is employed; provided, however, that a licensee or registrant
18 may work for more than one company concurrently.

19 H. A licensee or registrant shall notify the
20 department in writing within thirty days of each change in the
21 licensee's or registrant's employment by filing an amendment to
22 the licensee's or registrant's application obtained from the
23 department. If a licensee or registrant ceases to be employed
24 by a private investigation company or a private patrol company,
25 the licensee or registrant shall notify the department in

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1 writing within thirty days from the date the licensee or
2 registrant ceases employment with that company.

3 I. A private investigation company or a private
4 patrol company shall notify the department within thirty days
5 of a change in ownership structure or, if a corporation, a
6 change in the membership of the board of directors.

7 J. Employees of a private investigation company or
8 a private patrol company who are engaged exclusively to perform
9 stenographic, typing, word processing, secretarial,
10 receptionist, accounting, bookkeeping, information technology
11 or other business applications or support functions and who do
12 not perform the work of a private investigator, a private
13 patrol operator or a security guard are not required to be
14 licensed or registered pursuant to the Private Investigations
15 Act.

16 K. An individual who is not licensed or qualified
17 to be employed as a private investigations manager or a private
18 patrol operations manager shall not be employed to perform the
19 duties required of those managers."

20 Section 24. Section 61-27A-11 NMSA 1978 (being Laws 1993,
21 Chapter 212, Section 11) is amended to read:

22 "61-27A-11. BOND REQUIRED.--

23 A. A private investigation company or private
24 patrol company license [~~except a manager's license and~~
25 ~~polygraph examiner's license~~] shall not be issued [~~under~~] by

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1 the department pursuant to the Private [Investigators and
2 Polygraphers] Investigations Act unless the applicant files
3 with the department:

4 (1) a surety bond in the sum of ten thousand
5 dollars (\$10,000) executed by a surety company authorized to do
6 business in this state; [or] and

7 [~~(2) a certificate of deposit in the sum of~~
8 ~~two thousand dollars (\$2,000), conditioned for the faithful and~~
9 ~~lawful conduct of business by the applicant. The form of bond,~~
10 ~~its execution and the sufficiency of the surety shall be~~
11 ~~verified by the department.~~

12 B. ~~A licensee shall maintain the surety bond, and,~~
13 ~~upon failure to do so, the license of the licensee shall be~~
14 ~~suspended and shall not be reinstated until an application in~~
15 ~~the form prescribed by the department is filed, together with a~~
16 ~~proper surety bond.]~~

17 (2) a commercial general liability certificate
18 of insurance.

19 B. The owner or the chief executive officer of a
20 private investigation company or a private patrol company shall
21 maintain the general liability certificate of insurance, and,
22 upon failure to do so, the license of the private investigation
23 company or the private patrol company shall be suspended and
24 shall not be reinstated until an application in the form
25 prescribed by the department is filed, with the necessary fees

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1 and with an acceptable general liability certificate of
2 insurance. The department may deny the application,
3 notwithstanding the applicant's compliance with this section:

4 (1) for any reason that would justify a
5 refusal to issue or a suspension or a revocation of a license;
6 or

7 (2) for the performance by the applicant of
8 any practice while under suspension for failure to keep [~~his~~
9 ~~bond~~] the applicant's general liability certificate of
10 insurance in force for which a license under the Private
11 [~~Investigators and Polygraphers~~] Investigations Act is
12 required.

13 C. [~~Bonds~~] A general liability certificate of
14 insurance executed and filed with the department pursuant to
15 the Private [~~Investigators and Polygraphers~~] Investigations Act
16 shall remain in force until the surety company issuing the
17 general liability certificate of insurance has terminated
18 future [~~liability~~] indemnity by [~~thirty-day~~] notice to the
19 department."

20 Section 25. Section 61-27A-12 NMSA 1978 (being Laws 1993,
21 Chapter 212, Section 12) is amended to read:

22 "61-27A-12. PROHIBITED ACTS.--

23 A. [~~Any~~] A licensee or [~~manager for the licensee~~]
24 registrant may divulge to [~~any~~] a law enforcement officer or
25 district attorney, the attorney general or [~~his~~] the attorney

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1 general's representatives [~~any~~] information [~~he~~] the licensee
2 or registrant acquires concerning [~~any~~] a criminal offense, but
3 [~~he~~] the licensee or registrant shall not divulge to any other
4 person, except as [~~he~~] the licensee or registrant is required
5 by law, [~~any~~] information acquired by [~~him~~] the licensee or
6 registrant except at the direction of [~~his~~] the licensee's or
7 registrant's employer or the client for whom the information
8 was obtained.

9 B. No licensee [~~manager or employee of a licensee~~]
10 or registrant shall knowingly make [~~any~~] a false report to
11 [~~his~~] the licensee's or registrant's employer or the client for
12 whom the information was being obtained.

13 C. No written report shall be submitted to a client
14 except by the licensee, [~~the~~] private investigations manager or
15 private patrol operations manager or a person authorized by
16 either of them, and the person submitting the report shall
17 exercise diligence in ascertaining whether the facts and
18 information of the report are true and correct.

19 D. No [~~licensee, manager or employee of a~~] private
20 investigator, private investigations manager or private
21 investigations employee shall use a badge in connection with
22 the official activities of the licensee's [~~business~~] or
23 employee's employment for a private investigation company.

24 E. No licensee [~~manager or employee of a licensee~~]
25 or registrant shall use a title or wear a uniform, use an

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1 insignia, use an identification card or make [~~any~~] a statement
2 with the intent to give an impression that [~~he~~] the licensee or
3 registrant is connected in any way with the federal or state
4 government or [~~any~~] a political subdivision of either.

5 F. No private patrol operator licensee, [~~manager or~~
6 ~~employee of a private patrol operator licensee~~] private patrol
7 operations manager or level three security guard shall use a
8 badge except when engaged in guard or patrol work and while
9 wearing a uniform.

10 G. No licensee or registrant shall appear as an
11 assignee party in [~~any~~] a proceeding involving a claim and
12 delivery [~~replevin or other possessory~~] action to recover or
13 possess property or action for foreclosing a chattel mortgage,
14 mechanic's lien, materialman's lien or any other lien.

15 H. A polygraph examiner shall not ask questions
16 during the course of a polygraph examination relative to sexual
17 affairs of an examinee, the examinee's race, creed, religion or
18 union affiliation or [~~any~~] an activity not previously and
19 specifically agreed to by written consent."

20 Section 26. Section 61-27A-13 NMSA 1978 (being Laws 1993,
21 Chapter 212, Section 13) is amended to read:

22 "61-27A-13. DENIAL, SUSPENSION OR REVOCATION OF LICENSE
23 OR REGISTRATION.--In accordance with procedures contained in
24 the Uniform Licensing Act, the department may deny, suspend or
25 revoke [~~any~~] a license or registration held or applied for

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1 under the Private [~~Investigators and Polygraphers~~]
2 Investigations Act or reprimand or place on probation a
3 licensee or registrant upon grounds that the licensee,
4 registrant or applicant:

5 A. made a false statement or gave false information
6 in connection with an application for a license or registration
7 or renewal or reinstatement of a license or registration;

8 B. violated [~~any~~] a provision of the Private
9 [~~Investigators and Polygraphers~~] Investigations Act;

10 C. violated [~~any~~] a rule of the department adopted
11 pursuant to [~~that~~] the Private Investigations Act;

12 D. has been convicted of a felony or any crime
13 involving moral turpitude or illegally using, carrying or
14 possessing a deadly weapon;

15 E. impersonated or permitted or aided and abetted
16 an employee of a private investigation company or private
17 patrol company to impersonate a law enforcement officer or
18 employee of the United States or of [~~any~~] a state or political
19 subdivision of either;

20 F. committed or permitted [~~any~~] an employee of a
21 private investigation company or a private patrol company to
22 commit [~~any~~] an act while the license or registration of the
23 person licensed or registered pursuant to the Private
24 Investigations Act was expired that would be cause for the
25 suspension or revocation of a license or registration or

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1 grounds for the denial of an application for a license or
2 registration;

3 G. willfully failed or refused to render to a
4 client services or a report as agreed between the parties, for
5 which compensation has been paid or tendered in accordance with
6 the agreement of the parties;

7 H. committed assault, battery or kidnapping or used
8 force or violence on [~~any~~] a person without [~~proper~~]
9 justification;

10 I. knowingly violated or advised, encouraged or
11 assisted the violation of [~~any~~] a court order or injunction in
12 the course of business of the licensee or registrant;

13 J. knowingly issued a worthless or otherwise
14 fraudulent payroll check that is not redeemed within two days
15 of denial of payment [~~of any~~] by a bank;

16 K. has been chronically or persistently inebriated
17 or addicted to the illegal use of dangerous or narcotic drugs;

18 L. has been adjudged mentally incompetent or insane
19 by regularly constituted authorities; [~~or~~]

20 M. while unlicensed, committed or aided and abetted
21 the commission of any act for which a license is required under
22 the Private [~~Investigators and Polygraphers~~] Investigations
23 Act; or

24 N. has been found to have violated the requirements
25 of a state or federal labor, tax or employee benefit law or

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1 rule."

2 Section 27. Section 61-27A-14 NMSA 1978 (being Laws 1993,
3 Chapter 212, Section 14) is amended to read:

4 "61-27A-14. HEARING--PENALTIES.--~~[Every]~~

5 A. A person who is denied a license or ~~[employee]~~
6 registration or who has ~~[his]~~ a license or ~~[employee]~~
7 registration suspended or revoked shall be entitled to a
8 hearing before the department if within twenty days after the
9 denial, suspension or revocation a request for a hearing is
10 ~~[served on]~~ received by the department. The procedures
11 ~~[outlined in]~~ of the Uniform Licensing Act shall be followed
12 pertaining to the hearing ~~[insofar as]~~ to the extent that they
13 do not conflict with the provisions of the Private
14 ~~[Investigators and Polygraphers]~~ Investigations Act.

15 B. In accordance with the provisions of the Uniform
16 Licensing Act, and in addition to other penalties provided by
17 law, the department may impose the following:

18 (1) for a violation of the Private
19 Investigations Act, a civil penalty not to exceed one thousand
20 dollars (\$1,000) for each violation; and

21 (2) against a person who is found by the
22 department to be engaging in a practice regulated by the
23 department without an appropriate license or registration,
24 civil penalties not to exceed one thousand dollars (\$1,000)."

25 Section 28. Section 61-27A-16 NMSA 1978 (being Laws 1993,

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1 Chapter 212, Section 16) is amended to read:

2 "61-27A-16. LICENSE NOT TRANSFERABLE.--

3 A. A license or registration issued [under]
4 pursuant to the Private [Investigators and Polygraphers]
5 Investigations Act [is] shall not [transferable or
6 reassignable] be transferred or assigned.

7 B. The department shall adopt by rule procedures
8 for changes in the name or management of a private
9 investigation company or private patrol company. If the
10 private investigation company or private patrol company fails
11 to comply with the procedures established by department rule,
12 the private investigation company or private patrol company
13 shall be considered to be operating without a license."

14 Section 29. Section 61-27A-17 NMSA 1978 (being Laws 1993,
15 Chapter 212, Section 17) is amended to read:

16 "61-27A-17. LOCAL REGULATIONS.--The provisions of the
17 Private [Investigators and Polygraphers] Investigations Act
18 shall not prevent the local authorities of [~~any~~] a city [county
19 or city and] or county by ordinance and within the exercise of
20 the police power of [such city, county or] the city [and] or
21 county from imposing local ordinances upon [any] a street
22 patrol special officer or [upon any] on a person licensed
23 [within the scope of] or registered pursuant to the Private
24 [Investigators and Polygraphers] Investigations Act if the
25 ordinances are consistent with that act."

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1 Section 30. Section 61-27A-18 NMSA 1978 (being Laws 1993,
2 Chapter 212, Section 18) is amended to read:

3 "61-27A-18. FUND ESTABLISHED.--~~[There]~~

4 A. The "private investigations fund" is created in
5 the state treasury [the "private investigator and polygrapher
6 fund"].

7 B. All license and registration fees received by
8 the department pursuant to the Private [Investigators and
9 Polygraphers] Investigations Act shall be deposited in the fund
10 and [shall] are appropriated to the department to be used for
11 the administration and implementation of that act.

12 C. The state treasurer shall invest the fund as
13 other state funds are invested, and all income derived from
14 investment of the fund shall be credited to the fund.

15 D. All balances in the fund shall remain in the
16 fund and shall not revert to the general fund.

17 E. The department shall administer the fund, and
18 money in the fund shall be expended by warrant issued by the
19 secretary of finance and administration on vouchers signed by
20 the superintendent of regulation and licensing.

21 F. No more than five percent of the fund shall be
22 used by the department for administration of the fund."

23 Section 31. A new section of the Private Investigations
24 Act, Section 61-27A-19.1 NMSA 1978, is enacted to read:

25 "61-27A-19.1. [NEW MATERIAL] FIREARMS.--A private

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1 investigator, a private patrol operator, a private
2 investigations employee, a level three security guard or a
3 private patrol operations employee may carry a firearm upon
4 successful completion of the mandatory firearm training
5 required by rules of the department."

6 Section 32. Section 61-27A-20 NMSA 1978 (being Laws 1993,
7 Chapter 212, Section 20) is amended to read:

8 "61-27A-20. PENALTIES.--

9 A. A person who engages in a business regulated
10 ~~[under]~~ by the Private ~~[Investigators and Polygraphers]~~
11 Investigations Act who fraudulently ~~[represents himself to be]~~
12 makes a representation as being a licensee or ~~[registered~~
13 employee] registrant is guilty of a misdemeanor and if
14 convicted shall be ~~[punished by a term of imprisonment less~~
15 ~~than one year or a fine of not more than one thousand dollars~~
16 ~~(\$1,000) or both. A person]~~ sentenced pursuant Section 31-19-1
17 NMSA 1978.

18 B. An individual who fraudulently represents that
19 ~~[he]~~ the individual is employed by a licensee is guilty of a
20 petty misdemeanor and if convicted shall be ~~[punished by a term~~
21 ~~of imprisonment less than six months or a fine of not more than~~
22 ~~five hundred dollars (\$500) or both]~~ sentenced pursuant to
23 Section 31-19-1 NMSA 1978.

24 ~~[B.]~~ C. A person who violates ~~[a provision]~~ a
25 mandatory requirement, as set forth by the department in rule,

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1 of the Private [~~Investigators and Polygraphers~~] Investigations
2 Act, [~~except as provided for in Subsection A of this section~~]
3 is guilty of a petty misdemeanor except as provided in
4 Subsection A of this section and if convicted shall be
5 [~~punished by a fine of not more than five hundred dollars~~
6 (~~\$500~~) or by imprisonment for not more than six months or both]
7 sentenced pursuant to Section 31-19-1 NMSA 1978."

8 Section 33. A new section of the Private Investigations
9 Act is enacted to read:

10 "[NEW MATERIAL] RECIPROCITY.--

11 A. The department may enter into a reciprocity
12 agreement with another state for the purpose of licensing or
13 registering applicants to perform activities regulated by the
14 Private Investigations Act.

15 B. An applicant from another state at the time of
16 application for licensure or registration in New Mexico shall
17 be licensed or registered in that other state to perform the
18 services for which the applicant is seeking a New Mexico
19 license or registration.

20 C. The department may develop rules that allow for
21 reciprocity on a temporary or limited basis without requiring
22 an applicant licensed or registered in another state subject to
23 a reciprocity agreement to be licensed or registered in New
24 Mexico; provided that the state of licensure or registration:

25 (1) has licensure or registration requirements

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1 that meet or exceed those of New Mexico;

2 (2) has no record of disciplinary action taken
3 against the applicant in the last year; and

4 (3) can verify that the applicant has engaged
5 in activities for at least one year in the state with
6 reciprocity that are required to be licensed or registered
7 pursuant to the Private Investigations Act."

8 Section 34. A new section of the Private Investigations
9 Act is enacted to read:

10 "[NEW MATERIAL] BACKGROUND INVESTIGATIONS.--

11 A. The department shall adopt rules that:

12 (1) are developed in conjunction with the
13 department of public safety that require background
14 investigations of all persons licensed or registered pursuant
15 to the Private Investigations Act to determine if the person
16 has a criminal history;

17 (2) require all applicants for licensure or
18 registration to be fingerprinted on two fingerprint cards or
19 electronically as required for submission to the federal bureau
20 of investigation to conduct a national criminal history
21 investigation and for submission to the department of public
22 safety to conduct a state criminal history investigation;

23 (3) provide for an applicant to inspect or
24 challenge the validity of the record developed by the
25 background investigation if the applicant is denied a license

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1 or registration; and

2 (4) establish a fee for fingerprinting and
3 conducting a background investigation for an applicant.

4 B. Arrest record information received from the
5 federal bureau of investigation and department of public safety
6 shall be privileged and shall not be disclosed to individuals
7 not directly involved in the decision affecting the specific
8 applicant or employee.

9 C. The applicant shall pay the cost of obtaining
10 criminal history information from the federal bureau of
11 investigation and the department of public safety.

12 D. Electronic live scans may be used for conducting
13 criminal history investigations."

14 Section 35. A new section of the Private Investigations
15 Act is enacted to read:

16 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
17 REPEAL.--The private investigations advisory board is
18 terminated on July 1, 2011 pursuant to the Sunset Act. The
19 board shall continue to operate according to the provisions of
20 the Private Investigations Act until July 1, 2012. Effective
21 July 1, 2012, Chapter 61, Article 27A NMSA 1978 is repealed."

22 Section 36. TEMPORARY PROVISION--TRANSITION.--

23 A. A security guard, watchman, loss prevention
24 officer or patrolman licensed pursuant to the Private
25 Investigators and Polygraphers Act prior to July 1, 2007 shall

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1 apply for registration pursuant to the Private Investigations
2 Act prior to October 31, 2007 to receive registration without
3 meeting the examination or educational requirements of the
4 Private Investigations Act.

5 B. Between July 1, 2007 and October 31, 2007, an
6 individual shall be registered as a level three security guard
7 without examination or further qualification by the regulation
8 and licensing department if the individual:

9 (1) worked as a security guard, watchman, loss
10 prevention officer or patrolman for the five years immediately
11 preceding July 1, 2007 and was licensed by the regulation and
12 licensing department to perform that work; and

13 (2) was authorized pursuant to the Private
14 Investigators and Polygraphers Act prior to July 1, 2007 to
15 carry a firearm in the course of the individual's employment.

16 C. A security guard, watchman, loss prevention
17 officer or patrolman who is not qualified pursuant to
18 Subsection B of this section to be registered as a level three
19 security guard shall be registered by the regulation and
20 licensing department as a level one security guard if the
21 individual applies for registration pursuant to the Private
22 Investigations Act between July 1, 2007 and October 31, 2007,
23 except as provided in Subsection D of this section.

24 D. If the regulation and licensing department
25 finds, upon application by a security guard, watchman, loss

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1 prevention officer or patrolman who is employed in that
2 capacity prior to July 1, 2007, that the applicant has applied
3 in a timely manner and presents exceptional circumstances, as
4 determined by the regulation and licensing department, in which
5 the applicant demonstrates cause for that applicant to be
6 registered as a level two security guard, the department in its
7 discretion may register the security guard applicant as a level
8 two security guard without examination or further
9 qualification.

10 E. A private investigator or private patrol
11 operator holding a certificate of deposit or surety bond in the
12 sum of two thousand dollars (\$2,000) shall be exempt from the
13 bond provisions of the Private Investigations Act, provided
14 that the private investigator's or private patrol operator's
15 license remains current and the holder remains in good standing
16 with the regulation and licensing department.

17 F. A rule adopted by the regulation and licensing
18 department pursuant to the Private Investigators and
19 Polygraphers Act shall remain in effect until the regulation
20 and licensing department adopts rules to implement the Private
21 Investigations Act.

22 G. The regulation and licensing department shall
23 continue to register and license individuals pursuant to the
24 Private Investigators and Polygraphers Act until July 1, 2007,
25 or, if rules are not adopted by the regulation and licensing

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1 department to implement the Private Investigations Act by July
2 1, 2007, until the regulation and licensing department adopts
3 rules to implement the Private Investigations Act. However,
4 rules shall be adopted and the regulation and licensing
5 department shall begin to license and register applicants
6 pursuant to the Private Investigations Act no later than
7 September 1, 2007.

8 H. Money in the private investigator and
9 polygrapher fund is transferred on July 1, 2007 to the private
10 investigations fund.

11 Section 37. REPEAL.--Sections 61-27A-7, 61-27A-8,
12 61-27A-10, 61-27A-19 and 61-27A-21 NMSA 1978 (being Laws 1993,
13 Chapter 212, Sections 7, 8, 10 and 19 and Laws 2000, Chapter 4,
14 Section 16, as amended) are repealed.

15 Section 38. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2007.