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HOUSE BILL 835

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Janice E. Arnold-Jones

AN ACT

RELATING TO LICENSING; ENACTING THE SECURITY GUARD ACT;
REMOVING CERTAIN REGULATED PERSONS FROM THE PRIVATE
INVESTIGATIONS ACT; IDENTIFYING REGULATED PERSONS; CREATING THE
SECURITY GUARD ADVISORY BOARD; CREATING THE SECURITY GUARD
FUND; PROVIDING LICENSING PROCEDURES AND REQUIREMENTS;
PROVIDING PENALTIES; PROVIDING FEE LIMITATIONS; PROVIDING FOR A
TRANSITION PERIOD; AMENDING, REPEALING AND ENACTING SECTIONS OF
THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 28 of this act may be cited as the "Security Guard
Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Security Guard Act:

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1 A. "armored car company" means a company that
2 knowingly and willingly transports money and other negotiables
3 for a fee or other remuneration;

4 B. "bodyguard" means an individual who physically
5 performs the mission of personal security for another
6 individual;

7 C. "branch office" means an office of a private
8 patrol company physically located in New Mexico and managed,
9 controlled or directed by a private patrol operations manager;

10 D. "client" means an individual or legal entity
11 having a contract that authorizes services to be provided in
12 return for financial or other consideration;

13 E. "conviction" means any final adjudication of
14 guilty, whether pursuant to a plea of guilty or nolo contendere
15 or otherwise and whether or not the sentence is deferred or
16 suspended;

17 F. "department" means the regulation and licensing
18 department;

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

20 H. "legal business entity" means a sole
21 proprietorship, corporation, partnership, limited liability
22 company, limited liability partnership or other entity formed
23 for business purposes;

24 I. "licensee" means a person licensed pursuant to
25 the Security Guard Act;

1 J. "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 K. "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 L. "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 M. "private patrol operator" means an individual
25 who is licensed by the department to:

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1 (1) conduct uniformed or nonuniformed services
2 as a security guard to protect property and persons on or in
3 the property;

4 (2) prevent the theft, unlawful taking, loss,
5 embezzlement, misappropriation or concealment of goods, wares,
6 merchandise, money, bonds, stocks, notes, documents, papers or
7 property of any kind;

8 (3) perform the services required of a
9 security guard or security dog handler or provide security
10 services for an armored car company; or

11 (4) enforce the policies of a client;

12 N. "proprietary commercial organization" means an
13 organization or division of an organization that provides full-
14 or part-time security guard services solely for itself;

15 O. "registrant" means an individual registered as a
16 private patrol employee, a private patrol operations manager or
17 a security guard at any level;

18 P. "security dog handler" means an individual who
19 patrols with dogs to detect illegal substances or explosives or
20 to detect trespassers or unauthorized persons;

21 Q. "security guard" means an individual who is
22 registered to engage in uniformed or nonuniformed services
23 under the direct control and supervision of a licensed private
24 patrol operator or a private patrol operations manager to
25 perform such security missions as watchman, fixed post guard,

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1 dog handler, patrolman or other mission to protect property or
2 prevent thefts; and

3 R. "special event" means a parade or other public
4 or private event of short duration requiring security.

5 Section 3. [NEW MATERIAL] LICENSE REQUIRED.--It is
6 unlawful for an individual to:

7 A. act as a private patrol operator, security guard
8 or private patrol operations manager or to make any
9 representation as being a licensee or registrant unless the
10 individual is licensed by the department pursuant to the
11 Security Guard Act;

12 B. render physical protection for remuneration as a
13 bodyguard unless the individual is licensed as a private patrol
14 operator;

15 C. continue to act as a private patrol operator,
16 security guard or private patrol operations manager if the
17 individual's license issued pursuant to the Security Guard Act
18 has expired; or

19 D. falsely represent that the individual is
20 employed by a licensee.

21 Section 4. [NEW MATERIAL] PERSONS EXEMPTED.--

22 A. As used in this section, "temporary" means a
23 period of time not to exceed the duration of one private event
24 or one school or nonprofit organization event, as described in
25 Paragraphs (2) and (3) of Subsection B of this section.

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- 1 B. The Security Guard Act does not apply to:
- 2 (1) an individual employed exclusively and
- 3 regularly by one employer in connection with the affairs of
- 4 that employer; provided that the individual patrols or provides
- 5 security only on the premises of the employer as limited by the
- 6 employer;
- 7 (2) an individual employed exclusively to
- 8 provide temporary security at a private event that is not open
- 9 to the public;
- 10 (3) an individual providing temporary security
- 11 at athletic or other youth events and where the events occur
- 12 under the auspices of a public or private school or a nonprofit
- 13 organization;
- 14 (4) an officer or employee of the United
- 15 States or this state or a political subdivision of the United
- 16 States or this state while that officer or employee is engaged
- 17 in the performance of the officer's or employee's official
- 18 duties; or
- 19 (5) a charitable philanthropic society or
- 20 association duly incorporated under the laws of this state that
- 21 is organized and maintained for the public good and not for
- 22 private profit.

23 Section 5. [NEW MATERIAL] ADMINISTRATION OF ACT--RULES.--

24 A. The department shall enforce and administer the

25 provisions of the Security Guard Act.

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1 B. The department shall keep a record of each
2 individual licensee, including a database that contains each
3 licensee's license number, home and business addresses and
4 telephone numbers, primary email address and web site, if one
5 exists, valid complaints against the licensee, license
6 violations and disposition of complaints and violations.

7 C. The department shall adopt and enforce rules
8 pursuant to the Uniform Licensing Act necessary to carry out
9 the provisions of the Security Guard Act, including
10 establishing professional ethical standards.

11 D. The department shall adopt rules for:

12 (1) licensing private patrol operators,
13 private patrol operations managers and private patrol
14 employees;

15 (2) registering security guards and private
16 patrol employees;

17 (3) establishing minimum training and
18 educational standards for licensure and registration;

19 (4) establishing examinations, study guides
20 and continuing education requirements;

21 (5) establishing and operating a branch
22 office;

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

25 (7) providing permits for security guards for

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- 1 special events;
- 2 (8) conducting background investigations; and
- 3 (9) collecting and disclosing statistics and
- 4 information regarding matters within the board's jurisdiction.

5 Section 6. [NEW MATERIAL] SECURITY GUARD ADVISORY
6 BOARD--CREATED--MEMBERS.--

7 A. The "security guard advisory board" is created.

8 B. The superintendent of regulation and licensing
9 shall appoint members to the security guard advisory board to
10 assist in the conduct of the examination process for licensees
11 and registrants and to assist the department in other manners
12 as requested by the superintendent or provided for in rules of
13 the department.

14 C. The security guard advisory board members shall
15 consist of the following:

- 16 (1) three security guards;
- 17 (2) five private patrol operators or private
- 18 patrol operations managers;
- 19 (3) three security instructors who use
- 20 training material approved by the department; and
- 21 (4) one member of the public.

22 D. Members of the security guard advisory board
23 shall serve three-year staggered terms as determined by the
24 superintendent of regulation and licensing and shall not be
25 reappointed, if at all, unless three years have elapsed since

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1 the expiration of a prior term.

2 E. The security guard advisory board shall meet
3 monthly as scheduled by the chair and as called by the
4 superintendent of regulation and licensing. The board annually
5 shall elect a chair and recording secretary from among its
6 members.

7 F. The public member of the security guard advisory
8 board or the public member's spouse shall not:

9 (1) have been licensed pursuant to the
10 Security Guard Act, Private Investigations Act or any prior
11 similar statutory provisions; or

12 (2) have a direct or indirect financial
13 interest in a private investigation company, private patrol
14 company, polygraph business or a related business.

15 G. Members of the security guard advisory board
16 shall be reimbursed pursuant to the Per Diem and Mileage Act
17 and shall receive no other compensation, perquisite or
18 allowance for each day spent in the discharge of their duties.

19 Section 7. [NEW MATERIAL] PRIVATE PATROL OPERATOR--
20 REQUIREMENTS FOR LICENSURE.--

21 A. The department shall issue a license for a
22 private patrol operator to an individual who files a completed
23 application accompanied by the required fees and who submits
24 satisfactory evidence that the applicant:

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

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1 (2) is of good moral character;

2 (3) has successfully passed an examination as
3 required by department rules;

4 (4) has not been convicted of a felony
5 offense, an offense involving dishonesty, an offense involving
6 an intentional violent act, the illegal use or possession of a
7 deadly weapon or the illegal use, possession or distribution of
8 drugs and has not been found to have violated professional
9 ethical standards;

10 (5) has at least three years' experience of
11 actual work performed as a security guard or an equivalent
12 position, one year of which shall have been in a supervisory
13 capacity. The experience shall have been acquired within five
14 years preceding the filing of the application with the
15 department. Years of qualifying experience and the precise
16 nature of that experience shall be substantiated with
17 reasonable evidence by written certification from the
18 applicant's employers and shall be subject to independent
19 verification by the department as it determines is warranted.
20 The burden of proving necessary experience is on the applicant;

21 (6) is firearm-certified if the position will
22 require being armed with a firearm; and

23 (7) meets other requirements as set forth in
24 rules of the department.

25 B. A private patrol operator may not investigate

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1 acts except those that are incidental to a theft, embezzlement,
2 loss, misappropriation or concealment of property or other item
3 that the private patrol operator has been engaged or hired to
4 protect, guard or watch.

5 Section 8. [NEW MATERIAL] PRIVATE PATROL COMPANY--
6 REQUIREMENTS FOR LICENSURE.--

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

11 (1) if an individual, is of good moral
12 character; or if a legal business entity, the owners, officers
13 or directors of the entity are of good moral character;

14 (2) if an individual, has not been convicted
15 of a felony offense, an offense involving dishonesty, an
16 offense involving an intentional violent act or the illegal use
17 or possession of a deadly weapon and has not been found to have
18 violated professional ethical standards; or if a legal business
19 entity, the owners, officers or directors of the entity, either
20 singly or collectively, have not been convicted of a felony
21 offense, an offense involving dishonesty or an offense
22 involving an intentional violent act or the illegal use or
23 possession of a deadly weapon and have not been found to have
24 violated professional ethical standards;

25 (3) has an owner or a licensed private patrol

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1 operations manager who manages the daily operations of the
2 private patrol company;

3 (4) maintains a physical location in New
4 Mexico where records are maintained and made available for
5 department inspection;

6 (5) maintains a New Mexico registered agent if
7 the applicant is a private patrol company located outside of
8 New Mexico; and

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

11 B. The owner or the chief executive officer of a
12 private patrol company shall maintain a general liability
13 certificate of insurance in an amount required by the
14 department. The department shall suspend the license issued
15 pursuant to this section of a private patrol company that fails
16 to maintain an effective general liability certificate of
17 insurance as required. The department shall not reinstate the
18 license of a private patrol company that has had its license
19 suspended pursuant to this subsection until an application is
20 submitted to the department with the necessary fees and a copy
21 of the private patrol company's general liability certificate
22 of insurance newly in effect. The department may deny an
23 application for reinstatement of a private patrol company's
24 license, notwithstanding the applicant's compliance with this
25 subsection, for:

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1 (1) a reason that would justify a denial to
2 issue a new private patrol company license or that would be
3 cause for a suspension or revocation of a private patrol
4 company's license; or

5 (2) the performance by the applicant of an act
6 requiring a license issued pursuant to the Security Guard Act
7 while the applicant's license is under suspension for failure
8 to maintain the applicant's general liability certificate of
9 insurance in effect.

10 Section 9. [NEW MATERIAL] PRIVATE PATROL OPERATIONS
11 MANAGER--REQUIREMENTS FOR LICENSURE--NOTIFICATION OF DEPARTMENT
12 IN EVENT OF TERMINATION OF EMPLOYMENT.--

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

17 (1) possesses a current license in good
18 standing as a private patrol operator or a registration as a
19 level three security guard;

20 (2) has successfully passed an examination
21 required by department rule;

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

24 (4) meets other requirements as set forth in
25 the rules of the department.

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1 B. A private patrol operations manager who ceases
2 to be employed by the private patrol company that the manager
3 is licensed to manage, before leaving the company, shall
4 surrender the private patrol operations manager's license to
5 the owner, officer or director who is required to temporarily
6 take over the management of the private patrol company. The
7 owner, officer or director who temporarily takes over managing
8 the private patrol company within thirty days of the
9 termination from employment of the private patrol operations
10 manager shall:

11 (1) notify the department of the termination
12 of the employment of the private patrol operations manager;

13 (2) submit the surrendered license; and

14 (3) submit an application to the department
15 naming a new private patrol operations manager, who shall not
16 begin to perform the duties of a private patrol operations
17 manager until the department grants the applicant a private
18 patrol operations manager's license.

19 C. Failure to notify the department within thirty
20 days of the private patrol operations manager's termination
21 from employment subjects the license of the private patrol
22 company to suspension or revocation by the department.

23 D. Reinstatement of the private patrol company's
24 license may occur only upon the filing of an application for
25 reinstatement and payment of the reinstatement fee.

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1 Section 10. ~~[NEW MATERIAL]~~ SECURITY GUARD--LEVELS OF
2 REGISTRATION.--

3 A. A security guard shall be registered at one of
4 the three levels enumerated in this section that are based on
5 experience, age and other qualifications of the registrant:

6 (1) level one is the entry level registration
7 for security guards who will be working in a position not
8 requiring the registrant to carry arms;

9 (2) level two is the intermediate level
10 registration for security guards who are required to be armed
11 but not with firearms; and

12 (3) level three is the advanced level
13 registration for security guards who may be required to be
14 armed with a firearm.

15 B. Each security guard shall receive a card issued
16 by the department in the security guard's name with a definite
17 expiration date that shall be carried by the security guard at
18 all times when the security guard is performing duties that
19 require the security guard to be registered pursuant to the
20 provisions of this section. A security guard is not required
21 to obtain a new card each time the security guard changes
22 employment.

23 Section 11. ~~[NEW MATERIAL]~~ SECURITY GUARD--LEVEL ONE--
24 REGISTRATION--REQUIREMENTS.--

25 A. On or after July 1, 2009, every individual

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

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

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

8 (2) is of good moral character;

9 (3) has successfully completed an examination
10 as required by department rule;

11 (4) has not been convicted of a felony or an
12 offense involving dishonesty, an offense involving an
13 intentional violent act or the illegal use or possession of a
14 deadly weapon and has not been found to have violated
15 professional ethical standards;

16 (5) has completed a curriculum approved in
17 department rule consisting of level one security guard training
18 prior to being placed on a guard post for the first time as a
19 level one security guard; that training may be provided by:

20 (a) a public educational institution in
21 New Mexico or an educational institution licensed by the higher
22 education department pursuant to the Post-Secondary Educational
23 Institution Act;

24 (b) an in-house training program
25 provided by a licensed private patrol company using a

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1 curriculum approved by the department; or

2 (c) any other department-approved
3 educational institution using a curriculum approved by the
4 department and that complies with department standards set
5 forth in department rules;

6 (6) is employed by a private patrol company
7 under the direct supervision of a licensed private patrol
8 operator, a level three security guard or a private patrol
9 operations manager; and

10 (7) meets other requirements as set forth in
11 department rules.

12 C. A private patrol company shall notify the
13 department within thirty days from the date of the employment
14 termination of a level one security guard and the reasons for
15 the termination.

16 Section 12. [NEW MATERIAL] SECURITY GUARD--LEVEL TWO--
17 REGISTRATION--REQUIREMENTS.--

18 A. On or after July 1, 2009, every individual
19 seeking employment or employed as a level two security guard
20 shall file an application for registration with the department.

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

25 (1) meets the requirements to be granted

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1 registration as a level one security guard and maintains in
2 good standing a current registration as a level one security
3 guard;

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

6 (3) possesses a high school diploma or its
7 equivalent;

8 (4) in addition to the training required to be
9 registered as a level one security guard, has completed a
10 curriculum approved in department rule of level two security
11 guard training prior to being placed on a guard post for the
12 first time as a level two security guard; that training may be
13 provided by:

14 (a) a public educational institution in
15 New Mexico or an educational institution licensed by the higher
16 education department pursuant to the Post-Secondary Educational
17 Institution Act;

18 (b) an in-house training program
19 provided by a licensed private patrol company using a
20 curriculum approved by the department;

21 (c) the New Mexico law enforcement
22 academy; or

23 (d) any other department-approved
24 educational institution using a curriculum approved by the
25 department and complying with department standards set forth in

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1 department rules;

2 (5) 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 (6) meets other requirements as set forth in
7 department rules.

8 C. A private patrol company shall notify the
9 department within thirty days from the date of the employment
10 termination of a level two security guard and the reasons for
11 the termination.

12 Section 13. [NEW MATERIAL] SECURITY GUARD--LEVEL THREE--
13 REGISTRATION--REQUIREMENTS.--

14 A. On or after July 1, 2009, every individual
15 seeking employment or employed as a level three security guard
16 shall file an application for registration with the department.

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

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

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

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

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

5 (5) in addition to the training required to be
6 registered as a level two security guard and before the
7 applicant shall be placed for the first time at a guard post as
8 a level three security guard, has completed a curriculum
9 approved by the department consisting of the minimum training
10 for firearm certification prescribed by the department;
11 provided that the additional training required by the
12 department is provided by:

13 (a) a public educational institution in
14 New Mexico or an educational institution licensed by the higher
15 education department pursuant to the Post-Secondary Educational
16 Institution Act;

17 (b) an in-house training program
18 provided by a licensed private patrol company using a
19 curriculum approved by the department;

20 (c) the New Mexico law enforcement
21 academy; or

22 (d) any other department-approved
23 educational institution using a curriculum approved by the
24 department and complying with department standards set forth in
25 department rules;

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1 (6) is firearm-certified by the New Mexico law
2 enforcement academy or the national rifle association;

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

7 (8) beginning on July 1, 2009, has
8 successfully passed a psychological evaluation as prescribed by
9 the department to determine suitability for carrying firearms;
10 and

11 (9) meets other requirements as set forth in
12 department rules.

13 C. A private patrol company shall notify the
14 department within thirty days from the date of the employment
15 termination of a level three security guard and the reasons for
16 the termination.

17 Section 14. [NEW MATERIAL] FEES.--

18 A. The department shall establish a schedule of
19 reasonable fees as follows:

20 (1) private patrol operator fees:

21 (a) application fee, not to exceed one
22 hundred dollars (\$100);

23 (b) initial private patrol operator's
24 license fee or license renewal fee, not to exceed three hundred
25 dollars (\$300); and

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1 (c) initial private patrol operations
2 manager license fee or license renewal fee, not to exceed two
3 hundred dollars (\$200);

4 (2) security guard fees:

5 (a) level one or level two security
6 guard registration fee or registration renewal fee, not to
7 exceed fifty dollars (\$50.00); and

8 (b) level three security guard
9 registration fee or registration renewal fee, not to exceed
10 seventy-five dollars (\$75.00); and

11 (3) other fees applying to private patrol
12 operators:

13 (a) change in license fee, not to exceed
14 two hundred dollars (\$200);

15 (b) late fee on license or registration
16 renewals, not to exceed one hundred dollars (\$100);

17 (c) special event permit fee, not to
18 exceed one hundred dollars (\$100); and

19 (d) special event license fee for a
20 private patrol company, not to exceed fifty dollars (\$50.00).

21 B. Fees charged by the department shall not be
22 increased prior to fiscal year 2011.

23 Section 15. [NEW MATERIAL] LICENSE AND REGISTRATION
24 RENEWAL.--

25 A. A license or registration granted pursuant to

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1 the provisions of the Security Guard Act shall be renewed by
2 the department annually unless the term of the license is set
3 by the department in rule to be a longer period.

4 B. A licensee or registrant with an expired license
5 or registration shall not perform an activity for which a
6 license or registration is required pursuant to the Security
7 Guard Act until the license or registration has been renewed or
8 reinstated.

9 C. The department may require proof of continuing
10 education credits or other proof of competency as a requirement
11 of renewal or reinstatement of a license or registration.

12 D. A license or registration issued to a person
13 pursuant to the Security Guard Act shall not be transferred or
14 assigned.

15 Section 16. [NEW MATERIAL] DISPLAY OF LICENSE--
16 NOTIFICATION OF CHANGES.--

17 A. A license shall at all times be posted in a
18 conspicuous place in the principal place of business in New
19 Mexico of the licensee.

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

24 C. A registration card issued by the department
25 shall at all times be in the possession of and located on the

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1 person of a registrant when working.

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

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

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

14 Section 17. [NEW MATERIAL] GENERAL OPERATIONS PROVISIONS
15 OF COMPANIES--MANAGEMENT--LIABILITY FOR EMPLOYEES' CONDUCT--
16 MAINTENANCE OF RECORDS REQUIRED--REQUIRED AND PERMITTED
17 ACTIVITIES--ALLOWED CATEGORIES OF UNLICENSED EMPLOYEES.--

18 A. An owner of a private patrol company providing
19 services in New Mexico shall operate, direct, control and
20 manage that company; provided that the owner is licensed as a
21 private patrol operator or registered as a level three security
22 guard. An owner of a private patrol company who is not
23 licensed as a private patrol operator or registered as a level
24 three security guard shall employ a private patrol operations
25 manager and shall turn over the operation, direction, control

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1 and management of the private patrol company to that manager.

2 B. A private patrol company shall not conduct
3 business under a fictitious name until the company has obtained
4 the authorization for use of the name from the department. The
5 department shall not authorize the use of a fictitious name
6 that may generate public confusion with the name of a public
7 officer or agency or the name of an existing private patrol
8 company.

9 C. A private patrol company is liable for the
10 conduct of the company's employees, including the conduct of
11 its private patrol operations manager.

12 D. A private patrol company shall maintain records
13 of the qualifications, performance and training of all of its
14 current and former employees as required by the department.
15 The records are subject to inspection by the department upon
16 reasonable notice to the owner or private patrol operations
17 manager.

18 E. Except as otherwise provided in this section,
19 every employee of a licensed private patrol company shall be
20 licensed or registered by the department as employees of the
21 company with which the employee is employed; provided, however,
22 that a licensee or registrant may work for more than one
23 company concurrently.

24 F. A licensee or registrant shall notify the
25 department in writing within thirty days of each change in the

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1 licensee's or registrant's employment by filing an amendment to
2 the licensee's or registrant's application obtained from the
3 department. If a licensee or registrant ceases to be employed
4 by a private patrol company, the licensee or registrant shall
5 notify the department in writing within thirty days from the
6 date the licensee or registrant ceases employment with that
7 company.

8 G. A private patrol company shall notify the
9 department within thirty days of a change in ownership
10 structure or, if a corporation, a change in the membership of
11 the board of directors.

12 H. Employees of a private patrol company who are
13 engaged exclusively to perform stenographic, typing, word
14 processing, secretarial, receptionist, accounting, bookkeeping,
15 information technology or other business applications or
16 support functions and who do not perform the work of a private
17 patrol operator or a security guard are not required to be
18 licensed or registered pursuant to the Security Guard Act.

19 I. An individual who is not licensed or qualified
20 to be employed as a private patrol operations manager shall not
21 be employed to perform the duties required of that manager.

22 Section 18. [NEW MATERIAL] LIABILITY INSURANCE.--

23 A. The owner or the chief executive officer of a
24 private patrol company shall maintain a general liability
25 certificate of insurance in an amount required by the

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1 department.

2 B. A general liability certificate of insurance
3 executed and filed with the department pursuant to the Security
4 Guard Act shall remain in force until the surety company
5 issuing the bond or the certificate has terminated future
6 indemnity by notice to the department.

7 Section 19. [NEW MATERIAL] PROHIBITED ACTS.--

8 A. A licensee or registrant may divulge to a law
9 enforcement officer or district attorney, the attorney general
10 or the attorney general's representatives information the
11 licensee or registrant acquires concerning a criminal offense,
12 but the licensee or registrant shall not divulge to any other
13 person, except as the licensee or registrant is required by
14 law, information acquired by the licensee or registrant except
15 at the direction of the licensee's or registrant's employer or
16 the client for whom the information was obtained.

17 B. No licensee or registrant shall knowingly make a
18 false report to the licensee's or registrant's employer or the
19 client for whom the information was being obtained.

20 C. No written report shall be submitted to a client
21 except by the licensee, or a person authorized by the licensee,
22 and the person submitting the report shall exercise diligence
23 in ascertaining whether the facts and information of the report
24 are true and correct.

25 D. No licensee or registrant shall use a title or

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

5 E. No private patrol operator licensee, private
6 patrol operations manager or level three security guard shall
7 use a badge except when engaged in security guard or patrol
8 work and while wearing a uniform.

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

14 Section 20. [NEW MATERIAL] DENIAL, SUSPENSION OR
15 REVOCATION OF LICENSE OR REGISTRATION.--In accordance with
16 procedures contained in the Uniform Licensing Act, the
17 department may deny, suspend or revoke a license or
18 registration held or applied for under the Security Guard Act
19 or reprimand or place on probation a licensee or registrant
20 upon grounds that the licensee, registrant or applicant:

21 A. made a false statement or gave false information
22 in connection with an application for a license or registration
23 or renewal or reinstatement of a license or registration;

24 B. violated a provision of the Security Guard Act;

25 C. violated a rule of the department adopted

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1 pursuant to the Security Guard Act;

2 D. has been convicted of a felony or any crime
3 involving dishonesty or illegally using, carrying or possessing
4 a deadly weapon;

5 E. impersonated or permitted or aided and abetted
6 an employee of a private patrol company to impersonate a law
7 enforcement officer or employee of the United States or of a
8 state or political subdivision of either;

9 F. committed or permitted an employee of a private
10 patrol company to commit an act while the license or
11 registration of the person licensed or registered pursuant to
12 the Security Guard Act was expired that would be cause for the
13 suspension or revocation of a license or registration or
14 grounds for the denial of an application for a license or
15 registration;

16 G. willfully failed or refused to render to a
17 client services or a report as agreed between the parties, for
18 which compensation has been paid or tendered in accordance with
19 the agreement of the parties;

20 H. committed assault, battery or kidnapping or used
21 force or violence on a person without justification;

22 I. knowingly violated or advised, encouraged or
23 assisted the violation of a court order or injunction in the
24 course of business of the licensee or registrant;

25 J. knowingly issued a worthless or otherwise

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1 fraudulent payroll check that was not redeemed within two days
2 of denial of payment by a bank;

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

5 L. has been adjudged mentally incompetent or insane
6 by regularly constituted authorities;

7 M. while unlicensed, committed or aided and abetted
8 the commission of any act for which a license is required under
9 the Security Guard Act; or

10 N. has been found to have violated the requirements
11 of a state or federal labor, tax or employee benefit law or
12 rule.

13 Section 21. [NEW MATERIAL] HEARING--PENALTIES.--

14 A. A person who is denied a license or registration
15 or who has a license or registration suspended or revoked shall
16 be entitled to a hearing before the department if, within
17 twenty days after the denial, suspension or revocation, a
18 request for a hearing is received by the department. The
19 procedures of the Uniform Licensing Act shall be followed
20 pertaining to the hearing to the extent that they do not
21 conflict with the provisions of the Security Guard Act.

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

25 (1) for a violation of the Security Guard Act,

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1 a civil penalty not to exceed one thousand dollars (\$1,000) for
2 each violation; and

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

7 Section 22. [NEW MATERIAL] LICENSE NOT TRANSFERABLE.--

8 A. A license or registration issued pursuant to the
9 Security Guard Act shall not be transferred or assigned.

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

16 Section 23. [NEW MATERIAL] LOCAL REGULATIONS.--The
17 provisions of the Security Guard Act shall not prevent the
18 local authorities of any city, county or city and county by
19 ordinance and within the exercise of the police power of such
20 city, county or city and county from imposing local ordinances
21 upon any street patrol special officer or upon any person
22 licensed within the scope of the Security Guard Act if the
23 ordinances are consistent with that act.

24 Section 24. [NEW MATERIAL] FUND ESTABLISHED.--

25 A. The "security guard fund" is created in the

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1 state treasury.

2 B. All license and registration fees received by
3 the department pursuant to the Security Guard Act shall be
4 deposited in the fund and are appropriated to the department to
5 be used for the administration and implementation of that act.

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

9 D. All balances in the fund shall remain in the
10 fund and shall not revert to the general fund.

11 E. The department shall administer the fund, and
12 money in the fund shall be expended by warrant issued by the
13 secretary of finance and administration on vouchers signed by
14 the superintendent of regulation and licensing.

15 F. No more than five percent of the fund shall be
16 used by the department for administration of the fund.

17 Section 25. [NEW MATERIAL] FIREARMS.--A private patrol
18 operator, a level three security guard or a private patrol
19 operations manager may carry a firearm upon successful
20 completion of the mandatory firearm training required by rules
21 of the department.

22 Section 26. [NEW MATERIAL] PENALTIES.--

23 A. A person who engages in a business regulated by
24 the Security Guard Act who fraudulently makes a representation
25 as being a licensee or registrant is guilty of a misdemeanor

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1 and if convicted shall be sentenced pursuant to Section 31-19-1
2 NMSA 1978.

3 B. An individual who fraudulently represents that
4 the individual is employed by a licensee is guilty of a petty
5 misdemeanor and if convicted shall be sentenced pursuant to
6 Section 31-19-1 NMSA 1978.

7 C. A person who violates a mandatory requirement,
8 as set forth by the department in rule, of the Security Guard
9 Act is guilty of a petty misdemeanor, except as provided in
10 Subsection A of this section, and, if convicted, shall be
11 sentenced pursuant to Section 31-19-1 NMSA 1978.

12 Section 27. [NEW MATERIAL] RECIPROCITY.--

13 A. The department may enter into a reciprocity
14 agreement with another state for the purpose of licensing or
15 registering applicants to perform activities regulated by the
16 Security Guard Act.

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

22 C. The department may develop rules that allow for
23 reciprocity on a temporary or limited basis without requiring
24 an applicant licensed or registered in another state subject to
25 a reciprocity agreement to be licensed or registered in New

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1 Mexico; provided that the state of licensure or registration:

2 (1) has licensure or registration requirements
3 that meet or exceed those of New Mexico;

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

6 (3) can verify that the applicant has engaged
7 in activities for at least one year in the state with
8 reciprocity that are required to be licensed or registered
9 pursuant to the Security Guard Act.

10 Section 28. [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 periodic background
14 investigations of all persons licensed or registered pursuant
15 to the Security Guard Act to determine if the person has a
16 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 the department of public
6 safety shall be privileged and shall not be disclosed to
7 individuals not directly involved in the decision affecting the
8 specific 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 29. Section 61-27B-2 NMSA 1978 (being Laws 1993,
15 Chapter 212, Section 2, as amended) is amended to read:

16 "61-27B-2. DEFINITIONS.--As used in the Private
17 Investigations Act:

18 A. "armored car company" means a company that
19 knowingly and willingly transports money and other negotiables
20 for a fee or other remuneration;

21 B. "bodyguard" means an individual who physically
22 performs the mission of personal security for another
23 individual;

24 C. "branch office" means an office of a private
25 investigation company or a private patrol company physically

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1 located in New Mexico and managed, controlled or directed by a
2 private investigations manager or private patrol operations
3 manager;

4 D. "client" means an individual or legal entity
5 having a contract that authorizes services to be provided in
6 return for financial or other consideration;

7 E. "conviction" means any final adjudication of
8 guilty, whether pursuant to a plea of guilty or nolo contendere
9 or otherwise and whether or not the sentence is deferred or
10 suspended;

11 F. "department" means the regulation and licensing
12 department;

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

14 H. "legal business entity" means a sole
15 proprietorship, corporation, partnership, limited liability
16 company, limited liability partnership or other entity formed
17 for business purposes;

18 I. "licensee" means a person licensed pursuant to
19 the Private Investigations Act;

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

23 K. "polygraphy" means the process of employing an
24 instrument designed to graphically record simultaneously the
25 physiological changes in human respiration, cardiovascular

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1 activity, galvanic skin resistance or reflex for the purpose of
2 lie detection and includes the reading and interpretation of
3 polygraphic records and results or any other device used to
4 measure truthfulness;

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 performed
9 within New Mexico;

10 M. "private investigator" means an individual who
11 is licensed by the department to engage in business or who
12 accepts employment to conduct an investigation pursuant to the
13 Private Investigations Act to obtain information regarding:

14 (1) crime or wrongs done or threatened against
15 the United States or any state or territory of the United
16 States;

17 (2) a person;

18 (3) the location, disposition or recovery of
19 lost or stolen property;

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

22 (5) the securing of evidence to be used before
23 a court, administrative tribunal, board or investigating
24 committee or for a law enforcement officer; or

25 (6) the scene of a motor vehicle accident or

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1 evidence related to a motor vehicle accident;

2 N. "private investigations employee" means an
3 individual who is registered by the department to work under
4 the direct control and supervision of a private investigator
5 for a private investigation company;

6 O. "private investigations manager" means an
7 individual who:

8 (1) is licensed as a private investigator and
9 is issued a license by the department as a private
10 investigations manager;

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

13 (3) is assigned to and operates from the
14 private investigation company that the private investigations
15 manager is licensed to manage or from a branch office of that
16 private investigation company;

17 ~~P. "private patrol company" means a legal business~~
18 ~~entity, the location of which may be within or outside of the~~
19 ~~state, including an independent or proprietary commercial~~
20 ~~organization that provides private patrol operator services~~
21 ~~that are performed in New Mexico and the activities of which~~
22 ~~include employment of licensed private patrol operators or~~
23 ~~security guards;~~

24 ~~Q. "private patrol employee" means an individual~~
25 ~~who is registered by the department to work under the direct~~

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1 ~~control and supervision of a private patrol operator for a~~
2 ~~private patrol company;~~

3 R. ~~"private patrol operations manager" means an~~
4 ~~individual who:~~

5 (1) ~~is licensed as a private patrol operator~~
6 ~~or registered as a level three security guard and is issued a~~
7 ~~license by the department as a private patrol operations~~
8 ~~manager;~~

9 (2) ~~directs, controls or manages a private~~
10 ~~patrol company for the owner of the company; and~~

11 (3) ~~is assigned to and operates from the~~
12 ~~private patrol company that the private patrol operations~~
13 ~~manager is licensed to manage or from a branch office of that~~
14 ~~private patrol company;~~

15 S. ~~"private patrol operator" means an individual~~
16 ~~who is licensed by the department to:~~

17 (1) ~~conduct uniformed or nonuniformed services~~
18 ~~as a watchman, security guard or patrolman to protect property~~
19 ~~and persons on or in the property;~~

20 (2) ~~prevent the theft, unlawful taking, loss,~~
21 ~~embezzlement, misappropriation or concealment of goods, wares,~~
22 ~~merchandise, money, bonds, stocks, notes, documents, papers or~~
23 ~~property of any kind; or~~

24 (3) ~~perform the services required of a~~
25 ~~security guard or security dog handler or provide security~~

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1 ~~services for an armored car company;~~

2 ~~T. "proprietary commercial organization" means an~~
3 ~~organization or division of an organization that provides full-~~
4 ~~or part-time security guard services solely for itself] and~~

5 ~~[U.]~~ P. "registrant" means an individual registered
6 as a private investigations employee, a private patrol
7 operations employee or a security guard at any level.

8 ~~[V. "security dog handler" means an individual who~~
9 ~~patrols with dogs to detect illegal substances or explosives;~~

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

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

19 Section 30. Section 61-27B-3 NMSA 1978 (being Laws 1993,
20 Chapter 212, Section 3, as amended) is amended to read:

21 "61-27B-3. LICENSE REQUIRED.--It is unlawful for an
22 individual to:

23 A. act as a private investigator, [~~private patrol~~
24 ~~operator, security guard~~] private investigations employee or
25 private investigations manager [~~or private patrol operations~~

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1 ~~manager~~] or to make any representation as being a licensee or
2 registrant unless the individual is licensed by the department
3 pursuant to the Private Investigations Act;

4 B. render physical protection for remuneration as a
5 bodyguard unless the individual is licensed as a private
6 investigator or [~~a private patrol operator~~] licensed under the
7 Security Guard Act;

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

13 D. falsely represent that 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 Investigations Act."

18 Section 31. Section 61-27B-4 NMSA 1978 (being Laws 1993,
19 Chapter 212, Section 4, as amended) is amended to read:

20 "61-27B-4. PERSONS EXEMPTED.--

21 A. As used in this section, "temporary" means a
22 period of time not to exceed the duration of one private event
23 or one school or nonprofit organization event, as described in
24 Paragraphs (2) and (3) of Subsection B of this section.

25 B. The Private Investigations Act does not apply

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1 to:

2 (1) an individual employed exclusively and
3 regularly by one employer in connection with the affairs of
4 that employer; ~~[provided that the individual patrols or~~
5 ~~provides security only on the premises of the employer as~~
6 ~~limited by the employer;~~

7 ~~(2) an individual employed exclusively to~~
8 ~~provide temporary security at a private event that is not open~~
9 ~~to the public;~~

10 ~~(3) individuals providing temporary security~~
11 ~~at athletic or other youth events and where the events occur~~
12 ~~under the auspices of a public or private school or a nonprofit~~
13 ~~organization;~~

14 ~~(4)]~~ (2) an attorney licensed in New Mexico
15 conducting private investigations while engaged in the practice
16 of law;

17 ~~[(5)]~~ (3) an officer or employee of the United
18 States or this state or a political subdivision of the United
19 States or this state while that officer or employee is engaged
20 in the performance of the officer's or employee's official
21 duties;

22 ~~[(6)]~~ (4) a person engaged exclusively in the
23 business of obtaining and furnishing information concerning the
24 financial rating of persons;

25 ~~[(7)]~~ (5) a charitable philanthropic society

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1 or association duly incorporated under the laws of this state
2 that is organized and maintained for the public good and not
3 for private profit;

4 ~~[(8)]~~ (6) a licensed collection agency or an
5 employee of the agency while acting within the scope of
6 employment while making an investigation incidental to the
7 business of the agency, including an investigation of the
8 location of a debtor or the debtor's property;

9 ~~[(9)]~~ (7) admitted insurers, adjusters, agents
10 and insurance brokers licensed by the state performing duties
11 in connection with insurance transactions by them; or

12 ~~[(10)]~~ (8) an institution subject to the
13 jurisdiction of the director of the financial institutions
14 division of the department or the comptroller of currency of
15 the United States."

16 Section 32. Section 61-27B-5 NMSA 1978 (being Laws 1993,
17 Chapter 212, Section 5, as amended) is amended to read:

18 "61-27B-5. ADMINISTRATION OF ACT--RULES.--

19 A. The department shall enforce and administer the
20 provisions of the Private Investigations Act.

21 B. The department shall keep a record of each
22 individual licensee.

23 C. The department shall adopt and enforce rules
24 necessary to carry out the provisions of the Private
25 Investigations Act, including establishing professional ethical

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1 standards.

2 D. The department shall adopt rules regarding:

3 (1) licensing private investigators, private
4 investigations managers, private investigation companies
5 [~~private patrol operators, private patrol operations managers,~~
6 ~~private patrol employees~~] and polygraph examiners;

7 (2) registering private investigations
8 employees [~~security guards and private patrol employees~~];

9 (3) establishing minimum training and
10 educational standards for licensure and registration;

11 (4) establishing continuing education
12 requirements;

13 (5) establishing and operating a branch
14 office;

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

17 [~~(7) providing permits for security guards for~~
18 ~~special events; and~~

19 ~~(8)] (7) conducting background
20 investigations."~~

21 Section 33. Section 61-27B-6 NMSA 1978 (being Laws 2007,
22 Chapter 115, Section 6) is amended to read:

23 "61-27B-6. PRIVATE INVESTIGATIONS ADVISORY BOARD--
24 CREATED--MEMBERS.--

25 A. The "private investigations advisory board" is

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1 created.

2 B. The superintendent of regulation and licensing
3 shall appoint members to the advisory board to assist in the
4 conduct of the examination process for licensees and
5 registrants and to assist the department in other manners as
6 requested by the superintendent or provided for in rules of the
7 department.

8 C. The advisory board members shall consist of at
9 least the following:

10 (1) two private investigators;

11 (2) one private [~~patrol operator~~]

12 investigations manager;

13 (3) one polygraph examiner; and

14 (4) one member of the public.

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

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

21 (1) have been licensed pursuant to the Private
22 Investigations Act, [~~the Private Investigators and Polygraphers~~
23 ~~Act~~] the Security Guard Act or any prior similar statutory
24 provisions; or

25 (2) have a direct or indirect financial

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1 interest in a private investigation company, private patrol
2 company, polygraph business or a related business."

3 Section 34. Section 61-27B-20 NMSA 1978 (being Laws 2007,
4 Chapter 115, Section 20) is amended to read:

5 "61-27B-20. FEES.--

6 A. The department shall establish a schedule of
7 reasonable fees as follows:

8 (1) private investigator fees:

9 (a) application fee, not to exceed one
10 hundred dollars (\$100);

11 (b) initial private investigator's
12 license fee or license renewal fee, not to exceed three hundred
13 dollars (\$300); and

14 (c) initial private investigations
15 manager license fee or license renewal fee, not to exceed two
16 hundred dollars (\$200);

17 [~~(2) private patrol operator fees:~~

18 ~~(a) application fee, not to exceed one~~
19 ~~hundred dollars (\$100);~~

20 ~~(b) initial private patrol operator's~~
21 ~~license fee or license renewal fee, not to exceed three hundred~~
22 ~~dollars (\$300); and~~

23 ~~(c) initial private patrol operations~~
24 ~~manager license fee or license renewal fee, not to exceed two~~
25 ~~hundred dollars (\$200);~~

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1 ~~(3) security guard fees:~~

2 ~~(a) level one or level two security~~
3 ~~guard registration fee or registration renewal fee, not to~~
4 ~~exceed fifty dollars (\$50.00); and~~

5 ~~(b) level three security guard~~
6 ~~registration fee or registration renewal fee, not to exceed~~
7 ~~seventy-five dollars (\$75.00);~~

8 ~~(4)]~~ (2) polygraph examiners:

9 (a) application fee, not to exceed one
10 hundred dollars (\$100);

11 (b) initial polygraph examiner's license
12 fee or license renewal fee, not to exceed four hundred dollars
13 (\$400); and

14 (c) examination fee, not to exceed one
15 hundred dollars (\$100); and

16 ~~[(5)]~~ (3) other fees applying to private
17 investigators [~~private patrol operators~~] and polygraph
18 examiners:

19 (a) change in license fee, not to exceed
20 two hundred dollars (\$200); and

21 (b) late fee on license or registration
22 renewals, not to exceed one hundred dollars (\$100).

23 ~~[(c) special event permit fee, not to~~
24 ~~exceed one hundred dollars (\$100); and~~

25 ~~(d) special event license fee for a~~

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1 ~~private patrol company, not to exceed fifty dollars (\$50.00).]~~

2 B. Fees charged by the department shall not be
3 increased prior to fiscal year 2009."

4 Section 35. Section 61-27B-22 NMSA 1978 (being Laws 1993,
5 Chapter 212, Section 9, as amended) is amended to read:

6 "61-27B-22. DISPLAY OF LICENSE--NOTIFICATION OF
7 CHANGES.--

8 A. A license shall at all times be posted in a
9 conspicuous place in the principal place of business in New
10 Mexico of the licensee.

11 B. A copy of the registration of each registrant
12 employed by a private investigation company [~~or a private~~
13 ~~patrol company~~] shall be maintained in the main New Mexico
14 office of the company and in the branch office in which the
15 registrant works.

16 C. A registration card issued by the department
17 shall at all times be in the possession of and located on the
18 person of a registrant when working.

19 [~~D. A security guard shall wear the registration~~
20 ~~card on the outside of the guard's uniform so that the card is~~
21 ~~visible to others.~~

22 E.] D. A licensee, including owners, officers or
23 directors of a private investigation company [~~or a private~~
24 ~~patrol company~~] or a registrant, shall notify the department
25 immediately in writing of a change in the mailing or contact

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1 address of the licensee or registrant.

2 [F-] E. Failure to notify the department within
3 thirty days of changes required to be reported pursuant to this
4 section or failure to carry or display a registration as
5 required is grounds for suspension of a license or
6 registration."

7 Section 36. Section 61-27B-23 NMSA 1978 (being Laws 2007,
8 Chapter 115, Section 23) is amended to read:

9 "61-27B-23. GENERAL OPERATIONS PROVISIONS OF COMPANIES--
10 MANAGEMENT--LIABILITY FOR EMPLOYEES' CONDUCT--MAINTENANCE OF
11 RECORDS REQUIRED--REQUIRED AND PERMITTED ACTIVITIES--ALLOWED
12 CATEGORIES OF UNLICENSED EMPLOYEES.--

13 A. An owner of a private investigation company
14 providing services in New Mexico shall operate, direct, control
15 and manage that company provided that the owner is licensed as
16 a private investigator. An owner of a private investigation
17 company who is not licensed as a private investigator shall
18 employ a private investigator as a private investigations
19 manager and shall turn over the operation, direction, control
20 and management of the private investigation company to that
21 manager.

22 ~~[B. An owner of a private patrol company providing~~
23 ~~services in New Mexico shall operate, direct, control and~~
24 ~~manage that company, provided that the owner is licensed as a~~
25 ~~private patrol operator or registered as a level three security~~

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1 ~~guard. An owner of a private patrol company who is not~~
2 ~~licensed as a private patrol operator or registered as a level~~
3 ~~three security guard shall employ a private patrol operations~~
4 ~~manager and shall turn over the operation, direction, control~~
5 ~~and management of the private patrol company to that manager.~~

6 ~~G.]~~ B. A private investigation company [~~or a~~
7 ~~private patrol company]~~ shall not conduct business under a
8 fictitious name until the company has obtained the
9 authorization for use of the name from the department. The
10 department shall not authorize the use of a fictitious name
11 that may generate public confusion with the name of a public
12 officer or agency or the name of an existing private
13 investigation company. [~~or private patrol company.~~

14 ~~D.]~~ C. A private investigation company is liable
15 for the conduct of the company's employees, including the
16 conduct of its private investigations manager.

17 [~~E. A private patrol company is liable for the~~
18 ~~conduct of the company's employees, including the conduct of~~
19 ~~its private patrol operations manager.~~

20 ~~F.]~~ D. A private investigation company [~~or a~~
21 ~~private patrol company]~~ shall maintain records of the
22 qualifications, performance and training of all of its current
23 and former employees as required by the department. The
24 records are subject to inspection by the department upon
25 reasonable notice to the owner or private investigations

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1 manager. [~~or private patrol operations manager.~~

2 ~~G.]~~ E. Except as otherwise provided in this
3 section, every employee of a licensed private investigation
4 company [~~or private patrol company~~] shall be licensed or
5 registered by the department as employees of the company with
6 which the employee is employed; provided, however, that a
7 licensee or registrant may work for more than one company
8 concurrently.

9 [~~H.]~~ F. A licensee or registrant shall notify the
10 department in writing within thirty days of each change in the
11 licensee's or registrant's employment by filing an amendment to
12 the licensee's or registrant's application obtained from the
13 department. If a licensee or registrant ceases to be employed
14 by a private investigation company [~~or a private patrol~~
15 ~~company~~], the licensee or registrant shall notify the
16 department in writing within thirty days from the date the
17 licensee or registrant ceases employment with that company.

18 [~~F.]~~ G. A private investigation company [~~or a~~
19 ~~private patrol company~~] shall notify the department within
20 thirty days of a change in ownership structure or, if a
21 corporation, a change in the membership of the board of
22 directors.

23 [~~J.]~~ H. Employees of a private investigation
24 company [~~or a private patrol company~~] who are engaged
25 exclusively to perform stenographic, typing, word processing,

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1 secretarial, receptionist, accounting, bookkeeping, information
2 technology or other business applications or support functions
3 and who do not perform the work of a private investigator [~~a~~
4 ~~private patrol operator or a security guard~~] are not required
5 to be licensed or registered pursuant to the Private
6 Investigations Act.

7 [~~K.~~] I. An individual who is not licensed or
8 qualified to be employed as a private investigations manager
9 [~~or a private patrol operations manager~~] shall not be employed
10 to perform the duties required of [~~those managers~~] that
11 manager."

12 Section 37. Section 61-27B-24 NMSA 1978 (being Laws 1993,
13 Chapter 212, Section 11, as amended) is amended to read:

14 "61-27B-24. BOND REQUIRED.--

15 A. A private investigation company shall file with
16 the department a surety bond in the amount of ten thousand
17 dollars (\$10,000) executed by a surety company authorized to do
18 business in this state.

19 B. The owner or the chief executive officer of a
20 private investigation company that provides personal protection
21 or bodyguard services [~~or the owner or the chief executive~~
22 ~~office of a private patrol company~~] shall maintain a general
23 liability certificate of insurance in an amount required by the
24 department.

25 C. A surety bond in the amount of ten thousand

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1 dollars (\$10,000) or a general liability certificate of
2 insurance executed and filed with the department pursuant to
3 the Private Investigations Act shall remain in force until the
4 surety company issuing the bond or the certificate has
5 terminated future indemnity by notice to the department."

6 Section 38. Section 61-27B-25 NMSA 1978 (being Laws 1993,
7 Chapter 212, Section 12, as amended) is amended to read:

8 "61-27B-25. PROHIBITED ACTS.--

9 A. A licensee or registrant may divulge to a law
10 enforcement officer or district attorney, the attorney general
11 or the attorney general's representatives information the
12 licensee or registrant acquires concerning a criminal offense,
13 but the licensee or registrant shall not divulge to any other
14 person, except as the licensee or registrant is required by
15 law, information acquired by the licensee or registrant except
16 at the direction of the licensee's or registrant's employer or
17 the client for whom the information was obtained.

18 B. No licensee or registrant shall knowingly make a
19 false report to the licensee's or registrant's employer or the
20 client for whom the information was being obtained.

21 C. No written report shall be submitted to a client
22 except by the licensee, or a person authorized by the licensee,
23 and the person submitting the report shall exercise diligence
24 in ascertaining whether the facts and information of the report
25 are true and correct.

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1 D. No private investigator, private investigations
2 manager or private investigations employee shall use a badge in
3 connection with the official activities of the licensee's or
4 employee's employment for a private investigation company.

5 E. No licensee or registrant shall use a title or
6 wear a uniform, use an insignia, use an identification card or
7 make a statement with the intent to give an impression that the
8 licensee or registrant is connected in any way with the federal
9 or state government or a political subdivision of either.

10 ~~[F. No private patrol operator licensee, private~~
11 ~~patrol operations manager or level three security guard shall~~
12 ~~use a badge except when engaged in guard or patrol work and~~
13 ~~while wearing a uniform.~~

14 G.] F. No licensee or registrant shall appear as an
15 assignee party in a proceeding involving a claim and delivery
16 action to recover or possess property or action for foreclosing
17 a chattel mortgage, mechanic's lien, materialman's lien or any
18 other lien.

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

24 Section 39. Section 61-27B-26 NASA 1978 (being Laws 1993,
25 Chapter 212, Section 13, as amended) is amended to read:

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1 "61-27B-26. DENIAL, SUSPENSION OR REVOCATION OF LICENSE
2 OR REGISTRATION.--In accordance with procedures contained in
3 the Uniform Licensing Act, the department may deny, suspend or
4 revoke a license or registration held or applied for under the
5 Private Investigations Act or reprimand or place on probation a
6 licensee or registrant upon grounds that the licensee,
7 registrant or applicant:

8 A. made a false statement or gave false information
9 in connection with an application for a license or registration
10 or renewal or reinstatement of a license or registration;

11 B. violated a provision of the Private
12 Investigations Act;

13 C. violated a rule of the department adopted
14 pursuant to the Private Investigations Act;

15 D. has been convicted of a felony or any crime
16 involving dishonesty or illegally using, carrying or possessing
17 a deadly weapon;

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

23 F. committed or permitted an employee of a private
24 investigation company [~~or a private patrol company~~] to commit
25 an act while the license or registration of the person licensed

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1 or registered pursuant to the Private Investigations Act was
2 expired that would be cause for the suspension or revocation of
3 a license or registration or grounds for the denial of an
4 application for a license or registration;

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

9 H. committed assault, battery or [~~kidnaping~~]
10 kidnapping or used force or violence on a person without
11 justification;

12 I. knowingly violated or advised, encouraged or
13 assisted the violation of a court order or injunction in the
14 course of business of the licensee or registrant;

15 J. knowingly issued a worthless or otherwise
16 fraudulent payroll check that is not redeemed within two days
17 of denial of payment by a bank;

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

20 L. has been adjudged mentally incompetent or insane
21 by regularly constituted authorities;

22 M. while unlicensed, committed or aided and abetted
23 the commission of any act for which a license is required under
24 the Private Investigations Act; or

25 N. has been found to have violated the requirements

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1 of a state or federal labor, tax or employee benefit law or
2 rule."

3 Section 40. Section 61-27B-28 NMSA 1978 (being Laws 1993,
4 Chapter 212, Section 16, as amended) is amended to read:

5 "61-27B-28. LICENSE NOT TRANSFERABLE.--

6 A. A license or registration issued pursuant to the
7 Private Investigations Act shall not be transferred or
8 assigned.

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

16 Section 41. Section 61-27B-29 NMSA 1978 (being Laws 1993,
17 Chapter 212, Section 17) is amended to read:

18 "61-27B-29. LOCAL REGULATIONS.--The provisions of the
19 Private [~~Investigators and Polygraphers~~] Investigations Act
20 shall not prevent the local authorities of any city, county or
21 city and county by ordinance and within the exercise of the
22 police power of such city, county or city and county from
23 imposing local ordinances upon any street patrol special
24 officer or upon any person licensed within the scope of the
25 Private [~~Investigators and Polygraphers~~] Investigations Act if

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1 the ordinances are consistent with that act."

2 Section 42. Section 61-27B-31 NMSA 1978 (being Laws 2007,
3 Chapter 115, Section 31) is amended to read:

4 "61-27B-31. FIREARMS.--A private investigator [~~a private~~
5 ~~patrol operator~~] or a private investigations employee [~~a level~~
6 ~~three security guard or a private patrol operations employee~~]
7 may carry a firearm upon successful completion of the mandatory
8 firearm training required by rules of the department."

9 Section 43. TEMPORARY PROVISION--TRANSITION.--

10 A. On July 1, 2009 and thereafter, a private patrol
11 operator, private patrol company, private patrol operations
12 manager or security guard licensed, registered or authorized to
13 perform an activity pursuant to the Private Investigations Act
14 shall be subject to the Security Guard Act and shall be deemed
15 to be licensed, registered or authorized pursuant to the
16 Security Guard Act until the first license, registration or
17 authorization renewal opportunity occurs pursuant to the
18 Security Guard Act, at which time that entity or individual
19 shall be subject to the renewal provisions of, and rules
20 promulgated pursuant to, that act.

21 B. On July 1, 2009 and thereafter, all rules
22 promulgated pursuant to the Private Investigations Act that
23 apply to a private patrol operator, private patrol company,
24 private patrol operations manager or security guard shall
25 remain in effect until the regulation and licensing department

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1 promulgates rules to implement the Security Guard Act.

2 C. Money in the private investigations fund that is
3 attributable to private patrol operators, private patrol
4 companies, private patrol operations managers and security
5 guards is transferred on July 1, 2009 to the security guard
6 fund.

7 D. A disciplinary proceeding initiated against a
8 private patrol operator, private patrol company, private patrol
9 operations manager or security guard pursuant to the Private
10 Investigations Act prior to July 1, 2009 shall continue
11 pursuant to that act until the conclusion of the proceedings,
12 including the exhaustion of a judicial appeal that may be made.

13 E. All obligations of the private investigations
14 fund and the private investigations advisory board attributable
15 to private patrol operators, private patrol companies, private
16 patrol operations managers or security guards incurred or
17 imposed prior to July 1, 2009 pursuant to the Private
18 Investigations Act are transferred to and shall become
19 obligations of the security guard fund or the security guard
20 advisory board, as appropriate, on July 1, 2009. All
21 obligations of the regulation and licensing department
22 attributable to private patrol operators, private patrol
23 companies, private patrol operations managers or security
24 guards pursuant to the Private Investigations Act shall
25 continue as obligations of the regulation and licensing

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1 department pursuant to the Security Guard Act.

2 Section 44. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--

3 The security guard advisory board is terminated on July 1, 2013
4 pursuant to the Sunset Act. The board shall continue to
5 operate according to the provisions of the Security Guard Act
6 until July 1, 2014. Effective July 1, 2014, the Security Guard
7 Act is repealed.

8 Section 45. REPEAL.--Sections 61-27B-10 through
9 61-27B-12, 61-27B-15 through 61-27B-19 and 61-27B-35 NMSA 1978
10 (being Laws 2007, Chapter 115, Sections 10 through 12, 15
11 through 19 and 36) are repealed.

12 Section 46. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2009.