
HOUSE BILL 1334

State of Washington 55th Legislature 1997 Regular Session

By Representatives D. Sommers, Sterk, O'Brien, McMorris and Smith

Read first time 01/22/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to private investigators; amending RCW 18.165.010,
2 18.165.030, 18.165.040, 18.165.050, 18.165.060, 18.165.080, 18.165.110,
3 18.165.130, 18.165.150, 18.165.160, and 18.165.170; adding new sections
4 to chapter 18.165 RCW; repealing RCW 43.101.250; and prescribing
5 penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 18.165.010 and 1995 c 277 s 17 are each amended to
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Armed private investigator" means a private investigator (~~who~~
12 ~~has a current firearms certificate issued by the commission and is~~
13 ~~licensed as an armed private investigator under this chapter~~) agency
14 license holder or an employee of a licensed private investigator agency
15 who has been issued a concealed pistol license in accordance with
16 chapter 9.41 RCW.

17 (2) "Attorney service" means a business whose primary occupation is
18 the filing, obtaining, and copying of legal documents and the service
19 of such documents in accordance with the rules of civil procedure.

1 (3) "Chief law enforcement officer" means the elected or appointed
2 police administrator of a municipal, county, or state police or
3 sheriff's department that has full law enforcement powers in its
4 jurisdiction.

5 ~~((+3))~~ (4) "Commission" means the criminal justice training
6 commission established in chapter 43.101 RCW.

7 ~~((+4))~~ (5) "Competitive intelligence professional" means any
8 person employed by a business or organization not licensed under this
9 chapter for the sole purpose of conducting investigative-related
10 activities for the internal use and benefit of the employer.

11 (6) "Department" means the department of licensing.

12 ~~((+5))~~ (7) "Director" means the director of the department of
13 licensing.

14 ~~((+6))~~ (8) "Employer" includes any individual, firm, corporation,
15 partnership, association, company, society, manager, contractor,
16 subcontractor, bureau, agency, service, office, or an agent of any of
17 the foregoing that employs or seeks to enter into an arrangement to
18 employ any person as a private investigator.

19 ~~((+7) "Firearms certificate" means a certificate issued by the~~
20 ~~commission.~~

21 ~~(+8))~~ (9) "Forensic scientist" or "accident reconstructionist"
22 means a person engaged exclusively in collecting and analyzing physical
23 evidence and data relating to an accident or other matter and compiling
24 such evidence or data to render an opinion of likely cause, fault, or
25 circumstance of the accident or matter.

26 ~~((+9))~~ (10) "Information provider" means a business or party, not
27 licensed under this chapter, whose business is to provide details on
28 the existence, location, and contents of public records through
29 computer databases, CD-ROM devices, magnetic tape, or like means.

30 (11) "Person" includes any individual, firm, corporation,
31 partnership, association, company, society, manager, contractor,
32 subcontractor, bureau, agency, service, office, or an agent or employee
33 of any of the foregoing.

34 ~~((+10))~~ (12) "Principal" of a private investigator agency means
35 the owner or manager appointed by a corporation.

36 ~~((+11))~~ (13) "Private investigator employee" means a person who is
37 ~~((licensed under this chapter and is))~~ employed ~~((by a private~~
38 ~~investigator agency))~~ for the purpose of investigation, escort or body

1 guard services, or property loss prevention activities by a private
2 investigator agency licensed under this chapter.

3 ~~((12))~~ (14) "Private investigator agency" means a person or
4 entity licensed under this chapter and engaged in the business of
5 detecting, discovering, or revealing one or more of the following:

6 (a) Crime, criminals, or related information;

7 (b) The identity, habits, conduct, business, occupation, honesty,
8 integrity, credibility, knowledge, trustworthiness, efficiency,
9 loyalty, activity, movement, whereabouts, affiliations, associations,
10 transactions, acts, reputation, or character of any person or thing;

11 (c) The location, disposition, or recovery of lost or stolen
12 property;

13 (d) The cause or responsibility for fires, libels, losses,
14 accidents, or damage or injury to persons or to property;

15 (e) Evidence to be used before a court, board, officer, or
16 investigative committee;

17 (f) Detecting the presence of electronic eavesdropping devices; or

18 (g) The truth or falsity of a statement or representation.

19 ~~((13))~~ (15) "Qualifying agent" means an officer or manager of a
20 corporation who meets the requirements set forth in this chapter for
21 obtaining a private investigator agency license.

22 ~~((14))~~ (16) "Sworn peace officer" means a person who is an
23 employee of the federal government, the state, or a political
24 subdivision, agency, or department branch of a municipality or other
25 unit of local government, and has law enforcement powers.

26 **Sec. 2.** RCW 18.165.030 and 1995 c 277 s 19 are each amended to
27 read as follows:

28 ~~((An applicant must meet the following minimum requirements to~~
29 ~~obtain a private investigator license)) Any private investigator agency
30 or armed private investigator agency, licensed under this chapter, is
31 prohibited from employing as a private investigator employee any person
32 who does not meet the following requirements:~~

33 (1) Be at least eighteen years of age;

34 (2) Be a citizen or resident alien of the United States;

35 (3) Not have been convicted of a crime in any jurisdiction, if the
36 director determines that the applicant's particular crime directly
37 relates to his or her capacity to perform the duties of a private
38 investigator and the director determines that the license should be

1 withheld to protect the citizens of Washington state. The director
2 shall make her or his determination to withhold a license because of
3 previous convictions notwithstanding the restoration of employment
4 rights act, chapter 9.96A RCW((;

5 ~~(4) Be employed by or have an employment offer from a private~~
6 ~~investigator agency or be licensed as a private investigator agency;~~

7 ~~(5) Submit a set of fingerprints;~~

8 ~~(6) Pay the required nonrefundable fee for each application; and~~

9 ~~(7) Submit a fully completed application that includes proper~~
10 ~~identification on a form prescribed by the director for each company of~~
11 ~~employment)).~~

12 **Sec. 3.** RCW 18.165.040 and 1995 c 277 s 21 are each amended to
13 read as follows:

14 (1) An applicant must meet the following minimum requirements to
15 obtain an armed private investigator license:

16 (a) ~~Be ((licensed as a private investigator;~~

17 ~~(b))) employed as a private investigator employee or licensed as a~~
18 ~~private investigator agency principal under this chapter;~~

19 ~~(b) For a private investigator employee, proof of employment must~~
20 ~~be submitted at the request of the department;~~

21 ~~(c) Be at least twenty-one years of age;~~

22 ~~((e))) (d) Have a current ((firearms certificate)) concealed~~
23 ~~pistol license issued ((by the commission)) under chapter 9.41 RCW; and~~

24 ~~((d) Have a license to carry a concealed pistol; and)~~

25 (e) Pay the fee established by the director. For an endorsement to
26 ~~an existing private investigator agency license, the fee may not exceed~~
27 ~~fifty dollars.~~

28 (2) The armed private investigator license is renewable at the date
29 ~~of the expiration of the concealed pistol license issued under chapter~~
30 ~~9.41 RCW.~~

31 (3) The armed private investigator license may take the form of an
32 ~~endorsement to the private investigator license if deemed appropriate~~
33 ~~by the director.~~

34 **Sec. 4.** RCW 18.165.050 and 1995 c 277 s 22 are each amended to
35 read as follows:

36 (1) In addition to meeting the minimum requirements to obtain a
37 license as a private investigator, an applicant, or, in the case of a

1 partnership or limited partnership, each partner, or, in the case of a
2 corporation, the qualifying agent must meet the following additional
3 requirements to obtain a private investigator agency license:

4 (a) Pass an examination determined by the director to measure the
5 person's knowledge and competence in the private investigator agency
6 business; ~~((or))~~ and

7 (b) Have had at least three years' experience in investigative work
8 or its equivalent as determined by the director. A year's experience
9 means not less than two thousand hours of actual compensated work
10 performed before the filing of an application. An applicant shall
11 substantiate the experience by written certifications from previous
12 employers. If the applicant is unable to supply written certifications
13 from previous employers, applicants may offer written certifications
14 from professional persons other than employers who, based on personal
15 professional knowledge, can substantiate the employment.

16 (2) An agency license issued pursuant to this section may not be
17 assigned or transferred without prior written approval of the director.

18 (3) No license to own or operate a private investigator company may
19 be issued to an applicant if the name of the company portrays the
20 company as a public law enforcement agency, or in association with a
21 public law enforcement agency, or includes the word "police."

22 **Sec. 5.** RCW 18.165.060 and 1995 c 277 s 23 are each amended to
23 read as follows:

24 (1) An armed private investigator license grants authority to the
25 holder, while in the performance of his or her duties, to carry a
26 firearm ~~((with which the holder has met the proficiency requirements
27 established by the commission))~~ while in possession of a current
28 concealed pistol license issued under chapter 9.41 RCW.

29 (2) All firearms carried by armed private investigators in the
30 performance of their duties must be ~~((owned by the employer and)),~~ if
31 required by law, ~~((must be))~~ registered with the proper government
32 agency.

33 **Sec. 6.** RCW 18.165.080 and 1995 c 277 s 26 are each amended to
34 read as follows:

35 (1) The director shall issue ~~((a private investigator license card
36 to each licensed private investigator and))~~ an armed private
37 investigator license card to each armed private investigator.

1 (a) The license card may not be used as security clearance.

2 (b) ~~((A private investigator shall carry the license card whenever~~
3 ~~he or she is performing the duties of a private investigator and shall~~
4 ~~exhibit the card upon request.~~

5 ~~(c))~~ An armed private investigator shall carry the license card
6 whenever he or she is performing the duties of an armed private
7 investigator ~~((and shall exhibit the card upon request))~~.

8 (i) An armed private detective, when questioned as to his or her
9 licensing status by a law enforcement agent conducting an official
10 inquiry in the course of the agent's duties, shall present his or her
11 identification card to the law enforcement agent.

12 (ii) A licensee under this chapter has no duty to inform any
13 person, party, or agency of his or her status as a licensee under this
14 chapter unless questioned in the instance of official inquiry by law
15 enforcement agents during the course of their official duties.

16 (2) The director shall issue a license certificate to each licensed
17 private investigator agency.

18 (a) Within seventy-two hours after receipt of the license
19 certificate, the licensee shall post and display the certificate in a
20 conspicuous place in the principal office of the licensee within the
21 state.

22 (b) It is unlawful for any person holding a license certificate to
23 knowingly and willfully post the license certificate upon premises
24 other than those described in the license certificate or to materially
25 alter a license certificate.

26 (c) Every advertisement by a licensee that solicits or advertises
27 business shall contain the name of the licensee, the address of record,
28 and the license number as they appear in the records of the director.

29 (d) The licensee shall notify the director within thirty days of
30 any change in the licensee's officers or directors or any material
31 change in the information furnished or required to be furnished to the
32 director.

33 **Sec. 7.** RCW 18.165.110 and 1995 c 277 s 29 are each amended to
34 read as follows:

35 (1) The provisions of this chapter relating to the licensing for
36 regulatory purposes of ~~((private investigators,))~~ armed private
37 investigators~~((,))~~ and private investigator agencies are exclusive. No
38 governmental subdivision of this state may enact any laws or rules

1 licensing for regulatory purposes such persons, except as provided in
2 subsections (2) and (3) of this section.

3 (2) This section shall not be construed to prevent a political
4 subdivision of this state from levying a business fee, business and
5 occupation tax, or other tax upon private investigator agencies if such
6 fees or taxes are levied by the state on other types of businesses
7 within its boundaries.

8 (3) This section shall not be construed to prevent this state or a
9 political subdivision of this state from licensing for regulatory
10 purposes private investigator agencies with respect to activities that
11 are not regulated under this chapter.

12 **Sec. 8.** RCW 18.165.130 and 1995 c 277 s 31 are each amended to
13 read as follows:

14 (1) A private investigator agency shall notify the director within
15 thirty days after the death or termination of employment of any
16 employee who is a licensed (~~((private investigator or))~~) armed private
17 investigator by returning the license to the department with the word
18 (~~{{"}}~~) "terminated(~~{{"}}~~)" written across the face of the license, the
19 date of termination, and the signature of the principal of the private
20 investigator company.

21 (2) A private investigator agency shall notify the director within
22 seventy-two hours and the chief law enforcement officer of the county,
23 city, or town in which the agency is located immediately upon receipt
24 of information affecting a licensed (~~((private investigator's or))~~) armed
25 private investigator's continuing eligibility to hold a license under
26 the provisions of this chapter or affecting the eligibility of any
27 private investigator employee to meet the requirements of this chapter.

28 (3) A private investigator company shall notify the local law
29 enforcement agency whenever an employee who is an armed private
30 investigator discharges his or her firearm while on duty other than on
31 a supervised firearm range. The notification shall be made within ten
32 business days of the date the firearm is discharged.

33 **Sec. 9.** RCW 18.165.150 and 1995 c 277 s 33 are each amended to
34 read as follows:

35 (1) After June 30, 1992, any person who performs the functions and
36 duties of a private investigator in this state without being licensed
37 in accordance with the provisions of this chapter, or any person

1 presenting or attempting to use as his or her own the license of
2 another, or any person who gives false or forged evidence of any kind
3 to the director in obtaining a license, or any person who falsely
4 impersonates any other licensee, or any person who attempts to use an
5 expired or revoked license, or any person who violates any of the
6 provisions of this chapter is guilty of a gross misdemeanor.

7 (2) After January 1, 1992, a person is guilty of a gross
8 misdemeanor if he or she owns or operates a private investigator agency
9 in this state without first obtaining a private investigator agency
10 license.

11 ~~(3) ((After June 30, 1992, the owner or qualifying agent of a
12 private investigator agency is guilty of a gross misdemeanor if he or
13 she employs any person to perform the duties of a private investigator
14 without the employee having in his or her possession a permanent
15 private investigator license issued by the department. This shall not
16 preclude a private investigator agency from requiring applicants to
17 attend preassignment training classes or from paying wages for
18 attending the required preassignment training classes.~~

19 ~~(4))~~ After June 30, 1992, a person is guilty of a gross
20 misdemeanor if he or she performs the functions and duties of an armed
21 private investigator in this state unless the person holds a valid
22 armed private investigator license issued by the department.

23 ~~((+5))~~ (4) After June 30, 1992, it is a gross misdemeanor for a
24 private investigator agency to hire, contract with, or otherwise engage
25 the services of an unlicensed armed private investigator knowing that
26 the private investigator does not have a valid armed private
27 investigator license issued by the director.

28 ~~((+6))~~ (5) It is a gross misdemeanor for a person to possess or
29 use any vehicle or equipment displaying the word "police" or "law
30 enforcement officer" or having any sign, shield, marking, accessory, or
31 insignia that indicates that the equipment or vehicle belongs to a
32 public law enforcement agency.

33 ~~((+7))~~ (6) It is the duty of all officers of the state and
34 political subdivisions thereof to enforce the provisions of this
35 chapter. The attorney general shall act as legal adviser of the
36 director, and render such legal assistance as may be necessary in
37 carrying out the provisions of this chapter.

1 **Sec. 10.** RCW 18.165.160 and 1995 c 277 s 34 are each amended to
2 read as follows:

3 The following acts are prohibited and constitute grounds for
4 disciplinary action, assessing administrative penalties, or denial,
5 suspension, or revocation of any license under this chapter, as deemed
6 appropriate by the director:

7 (1) Knowingly violating any of the provisions of this chapter or
8 the rules adopted under this chapter;

9 (2) Knowingly making a material misstatement or omission in the
10 application for or renewal of a license (~~or firearms certificate~~),
11 including falsifying requested identification information;

12 (3) Not meeting the qualifications set forth in RCW 18.165.030,
13 18.165.040, or 18.165.050;

14 (4) (~~Failing to return immediately on demand a firearm issued by~~
15 ~~an employer;~~

16 ~~(5))~~ Carrying a firearm in the performance of his or her duties if
17 not the holder of a valid armed private investigator license, or
18 carrying a firearm not meeting the provisions of this chapter while in
19 the performance of his or her duties;

20 ~~((6))~~ (5) Failing to return immediately on demand company
21 identification, badges, or other items issued to the private
22 investigator by an employer;

23 ~~((7))~~ (6) Making any statement that would reasonably cause
24 another person to believe that the private investigator is a sworn
25 peace officer;

26 ~~((8))~~ (7) Divulging confidential information obtained in the
27 course of any investigation to which he or she was assigned;

28 ~~((9))~~ (8) Acceptance of employment that is adverse to a client or
29 former client and relates to a matter about which a licensee has
30 obtained confidential information by reason of or in the course of the
31 licensee's employment by the client;

32 ~~((10))~~ (9) Conviction of a gross misdemeanor or felony or the
33 commission of any act involving moral turpitude, dishonesty, or
34 corruption whether the act constitutes a crime or not. If the act
35 constitutes a crime, conviction in a criminal proceeding is not a
36 condition precedent to disciplinary action. Upon such a conviction,
37 however, the judgment and sentence is conclusive evidence at the
38 ensuing disciplinary hearing of the guilt of the license holder or
39 applicant of the crime described in the indictment or information, and

1 of the person's violation of the statute on which it is based. For the
2 purposes of this section, conviction includes all instances in which a
3 plea of guilty or nolo contendere is the basis for the conviction and
4 all proceedings in which the sentence has been deferred or suspended;
5 ~~((11))~~ (10) Advertising that is false, fraudulent, or misleading;
6 ~~((12))~~ (11) Incompetence or negligence that results in injury to
7 a person or that creates an unreasonable risk that a person may be
8 harmed;
9 ~~((13))~~ (12) Suspension, revocation, or restriction of the
10 individual's license to practice the profession by competent authority
11 in any state, federal, or foreign jurisdiction, a certified copy of the
12 order, stipulation, or agreement being conclusive evidence of the
13 revocation, suspension, or restriction;
14 ~~((14))~~ (13) Failure to cooperate with the director by:
15 (a) Not furnishing any necessary papers or documents requested by
16 the director for purposes of conducting an investigation for
17 disciplinary action, denial, suspension, or revocation of a license
18 under this chapter;
19 (b) Not furnishing in writing a full and complete explanation
20 covering the matter contained in a complaint filed with the department;
21 or
22 (c) Not responding to subpoenas issued by the director, whether or
23 not the recipient of the subpoena is the accused in the proceeding;
24 ~~((15))~~ (14) Failure to comply with an order issued by the
25 director or an assurance of discontinuance entered into with the
26 director;
27 ~~((16))~~ (15) Aiding or abetting an unlicensed person to practice
28 if a license is required;
29 ~~((17))~~ (16) Misrepresentation or fraud in any aspect of the
30 conduct of the business or profession;
31 ~~((18))~~ (17) Failure to adequately supervise employees to the
32 extent that the public health or safety is at risk;
33 ~~((19))~~ (18) Interference with an investigation or disciplinary
34 proceeding by willful misrepresentation of facts before the director or
35 the director's authorized representative, or by the use of threats or
36 harassment against any client or witness to prevent them from providing
37 evidence in a disciplinary proceeding or any other legal action;

1 (~~(20)~~) (19) Assigning or transferring any license issued pursuant
2 to the provisions of this chapter, except as provided in RCW
3 18.165.050;

4 (~~(21)~~) (20) Assisting a client to locate, trace, or contact a
5 person when the investigator knows that the client is prohibited by any
6 court order from harassing or contacting the person whom the
7 investigator is being asked to locate, trace, or contact, as it
8 pertains to domestic violence, stalking, or minor children;

9 (~~(22)~~) (21) Failure to maintain bond or insurance; or

10 (~~(23)~~) (22) Failure to have a qualifying principal in place.

11 **Sec. 11.** RCW 18.165.170 and 1995 c 277 s 35 are each amended to
12 read as follows:

13 The director has the following authority in administering this
14 chapter:

15 (1) To adopt, amend, and rescind rules as deemed necessary to carry
16 out this chapter;

17 (2) To issue subpoenas and administer oaths in connection with an
18 investigation, hearing, or proceeding held under this chapter;

19 (3) To take or cause depositions to be taken and use other
20 discovery procedures as needed in an investigation, hearing, or
21 proceeding held under this chapter;

22 (4) To compel attendance of witnesses at hearings;

23 (5) In the course of investigating a complaint or report of
24 unprofessional conduct, to conduct practice reviews;

25 (6) To take emergency action ordering summary suspension of a
26 license, or restriction or limitation of the licensee's practice
27 pending proceedings by the director;

28 (7) To use the office of administrative hearings as authorized in
29 chapter 34.12 RCW to conduct hearings. However, the director or the
30 director's designee shall make the final decision in the hearing;

31 (8) To enter into contracts for professional services determined to
32 be necessary for adequate enforcement of this chapter;

33 (9) To adopt standards of professional conduct or practice;

34 (10) In the event of a finding of unprofessional conduct by an
35 applicant or license holder, to impose sanctions against a license
36 applicant or license holder as provided by this chapter;

37 (11) To enter into an assurance of discontinuance in lieu of
38 issuing a statement of charges or conducting a hearing. The assurance

1 shall consist of a statement of the law in question and an agreement to
2 not violate the stated provision. The applicant or license holder
3 shall not be required to admit to any violation of the law, and the
4 assurance shall not be construed as such an admission. Violation of an
5 assurance under this subsection is grounds for disciplinary action;

6 (12) To designate individuals authorized to sign subpoenas and
7 statements of charges;

8 (13) To employ such investigative, administrative, and clerical
9 staff as necessary for the enforcement of this chapter;

10 (14) To compel attendance of witnesses at hearings; ((and))

11 (15) To investigate complaints received and instances and charges
12 of unlicensed practices prohibited by this chapter; and

13 (16) To assess administrative penalties for violations of law,
14 rules, or regulations.

15 NEW SECTION. **Sec. 12.** A new section is added to chapter 18.165
16 RCW to read as follows:

17 (1) The director shall set the fees for licensure for private
18 investigator agencies and armed private investigators at an amount that
19 will allow solely for the operation of that portion of services
20 provided by the department related to the licensing and regulation of
21 such licensees.

22 (2) The director shall submit an accounting of the department's
23 performance annually to the legislature specifically denoting the costs
24 of services and revenues of licensure related solely to private
25 investigators. Such accounting must be provided annually upon
26 completion to each private investigator agency licensee and must be
27 available upon request to any armed private investigator licensee.

28 (3) Should the department's provision of fees and revenues exceed
29 operating costs, the department shall immediately lower all fees for
30 licensees under this chapter to reflect the operating costs of the
31 department.

32 (4) The director shall submit to the legislature for approval and,
33 upon agreement of the governor, shall be entitled to raise fees to such
34 level to match the operating costs of the department solely related to
35 the services provided by the department to private detectives.

36 NEW SECTION. **Sec. 13.** A new section is added to chapter 18.165
37 RCW to read as follows:

1 (1)(a) A competitive intelligence professional shall not gather,
2 collect, compile, or conduct analysis of information for the purpose of
3 sale to a third party or for the benefit of a third party unless the
4 professional is licensed under this chapter.

5 (b) An information provider shall not conduct investigations,
6 including but not limited to skip-tracing activities including the
7 location of lost, found, or missing parties; conduct surveillances;
8 provide analysis of public record information except for the record's
9 location and contents; or perform like activities specifically
10 designated in this chapter to be the province of licensees under this
11 chapter.

12 (c) An attorney service shall not conduct investigations, including
13 but not limited to skip-tracing activities including the location of
14 lost, found, or missing parties; conduct surveillances for any third
15 party; or make implication or statement that it is licensed under this
16 chapter if not so licensed.

17 (2) The authority of the director to investigate and assess
18 penalties for violations under this section are set forth in RCW
19 18.165.240.

20 (3) A violation of this section is a gross misdemeanor.

21 NEW SECTION. **Sec. 14.** RCW 43.101.250 and 1991 c 328 s 28 are each
22 repealed.

--- END ---