

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1181

52nd Legislature
1991 Regular Session

Passed by the House March 19, 1991
Yeas 96 Nays 2

**Speaker of the
House of Representatives**

Passed by the Senate April 11, 1991
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1181** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1181

AS AMENDED BY THE SENATE

Passed Legislature - 1991 Regular Session

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Cole, Heavey, Jacobsen, R. King, Zellinsky, Jones, Prentice, Vance, Rayburn, Franklin, Scott, Wood, Bowman, Neher, Van Luven, Appelwick and Riley). Read first time March 4, 1991.

1 AN ACT Relating to private detective agencies and private
2 detectives; adding a new section to chapter 43.101 RCW; adding a new
3 chapter to Title 18 RCW; creating a new section; and prescribing
4 penalties.

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

6 NEW SECTION. **Sec. 1.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Armed private detective" means a private detective who has a
10 current firearms certificate issued by the commission and is licensed
11 as an armed private detective under this chapter.

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

1 (3) "Commission" means the criminal justice training commission
2 established in chapter 43.101 RCW.

3 (4) "Department" means the department of licensing.

4 (5) "Director" means the director of the department of licensing.

5 (6) "Employer" includes any individual, firm, corporation,
6 partnership, association, company, society, manager, contractor,
7 subcontractor, bureau, agency, service, office, or an agent of any of
8 the foregoing that employs or seeks to enter into an arrangement to
9 employ any person as a private detective.

10 (7) "Firearms certificate" means a certificate issued by the
11 commission.

12 (8) "Forensic scientist" or "accident reconstructionist" means a
13 person engaged exclusively in collecting and analyzing physical
14 evidence and data relating to an accident or other matter and compiling
15 such evidence or data to render an opinion of likely cause, fault, or
16 circumstance of the accident or matter.

17 (9) "Person" includes any individual, firm, corporation,
18 partnership, association, company, society, manager, contractor,
19 subcontractor, bureau, agency, service, office, or an agent or employee
20 of any of the foregoing.

21 (10) "Principal" of a private detective agency means the owner or
22 manager appointed by a corporation.

23 (11) "Private detective" means a person who is licensed under this
24 chapter and is employed by a private detective agency for the purpose
25 of investigation, escort or body guard services, or property loss
26 prevention activities.

27 (12) "Private detective agency" means a person or entity licensed
28 under this chapter and engaged in the business of detecting,
29 discovering, or revealing one or more of the following:

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

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

5 (c) The location, disposition, or recovery of lost or stolen
6 property;

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

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

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

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

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

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

20 NEW SECTION. **Sec. 2.** The requirements of this chapter do not
21 apply to:

22 (1) A person who is employed exclusively or regularly by one
23 employer and performs investigations solely in connection with the
24 affairs of that employer, if the employer is not a private detective
25 agency;

26 (2) An officer or employee of the United States or of this state or
27 a political subdivision thereof, while engaged in the performance of
28 the officer's official duties;

1 (3) A person engaged exclusively in the business of obtaining and
2 furnishing information about the financial rating of persons;

3 (4) An attorney at law while performing the attorney's duties as an
4 attorney;

5 (5) A licensed collection agency or its employee, while acting
6 within the scope of that person's employment and making an
7 investigation incidental to the business of the agency;

8 (6) Insurers, agents, and insurance brokers licensed by the state,
9 while performing duties in connection with insurance transacted by
10 them;

11 (7) A bank subject to the jurisdiction of the Washington state
12 banking commission or the comptroller of currency of the United States,
13 or a savings and loan association subject to the jurisdiction of this
14 state or the federal home loan bank board;

15 (8) A licensed insurance adjuster performing the adjuster's duties
16 within the scope of the adjuster's license;

17 (9) A secured creditor engaged in the repossession of the
18 creditor's collateral, or a lessor engaged in the repossession of
19 leased property in which it claims an interest;

20 (10) A person who is a forensic scientist, accident
21 reconstructionist, or other person who performs similar functions and
22 does not hold himself or herself out to be an investigator in any other
23 capacity; or

24 (11) A person solely engaged in the business of securing
25 information about persons or property from public records.

26 NEW SECTION. **Sec. 3.** An applicant must meet the following
27 minimum requirements to obtain a private detective license:

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

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

1 (3) Not have been convicted of a crime in any jurisdiction, if the
2 director determines that the applicant's particular crime directly
3 relates to his or her capacity to perform the duties of a private
4 detective and the director determines that the license should be
5 withheld to protect the citizens of Washington state. The director
6 shall make her or his determination to withhold a license because of
7 previous convictions consistent with the restoration of employment
8 rights act, chapter 9.96A RCW;

9 (4) Be employed by or have an employment offer from a private
10 detective agency or be licensed as a private detective agency;

11 (5) Submit a set of fingerprints; and

12 (6) Pay the required fee.

13 NEW SECTION. **Sec. 4.** (1) An applicant must meet the following
14 minimum requirements to obtain an armed private detective license:

15 (a) Be licensed as a private detective;

16 (b) Be at least twenty-one years of age;

17 (c) Have a current firearms certificate issued by the commission;

18 and

19 (d) Pay the fee established by the director.

20 (2) The armed private detective license may take the form of an
21 endorsement to the private detective license if deemed appropriate by
22 the director.

23 NEW SECTION. **Sec. 5.** (1) In addition to meeting the minimum
24 requirements to obtain a license as a private detective, an applicant,
25 or, in the case of a partnership or limited partnership, each partner,
26 or, in the case of a corporation, the qualifying agent must meet the
27 following additional requirements to obtain a private detective agency
28 license:

1 (a) Pass an examination determined by the director to measure the
2 person's knowledge and competence in the private detective agency
3 business; or

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

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

15 NEW SECTION. **Sec. 6.** (1) An armed private detective license
16 grants authority to the holder, while in the performance of his or her
17 duties, to carry a firearm with which the holder has met the
18 proficiency requirements established by the commission.

19 (2) All firearms carried by armed private detectives in the
20 performance of their duties must be owned by the employer and, if
21 required by law, must be registered with the proper government agency.

22 NEW SECTION. **Sec. 7.** (1) Applications for licenses required
23 under this chapter shall be filed with the director on a form provided
24 by the director. The director may require any information and
25 documentation that reasonably relates to the need to determine whether
26 the applicant meets the criteria.

27 (2) After receipt of an application for a license, the director
28 shall conduct an investigation to determine whether the facts set forth

1 in the application are true and shall request that the Washington state
2 patrol compare the fingerprints submitted with the application to
3 fingerprint records available to the Washington state patrol.

4 (3) A summary of the information acquired under this section, to
5 the extent that it is public information, shall be forwarded by the
6 department to the applicant's employer and to the chief law enforcement
7 officer of the county and city or town in which the applicant's
8 employer is located, for the purpose of comment prior to the issuance
9 of a permanent private detective license.

10 NEW SECTION. **Sec. 8.** (1) The director shall issue a private
11 detective license card to each licensed private detective and an armed
12 private detective license card to each armed private detective.

13 (a) The license card may not be used as security clearance or as
14 identification.

15 (b) A private detective shall carry the license card whenever he or
16 she is performing the duties of a private detective and shall exhibit
17 the card upon request.

18 (c) An armed private detective shall carry the license card
19 whenever he or she is performing the duties of an armed private
20 detective and shall exhibit the card upon request.

21 (2) The director shall issue a license certificate to each licensed
22 private detective agency.

23 (a) Within seventy-two hours after receipt of the license
24 certificate, the licensee shall post and display the certificate in a
25 conspicuous place in the principal office of the licensee within the
26 state.

27 (b) It is unlawful for any person holding a license certificate to
28 knowingly and willfully post the license certificate upon premises

1 other than those described in the license certificate or to materially
2 alter a license certificate.

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

6 (d) The licensee shall notify the director within thirty days of
7 any change in the licensee's officers or directors or any material
8 change in the information furnished or required to be furnished to the
9 director.

10 NEW SECTION. **Sec. 9.** (1) The director shall adopt rules
11 establishing preassignment training and testing requirements, which
12 shall include a minimum of four hours of classes. The director may
13 establish, by rule, continuing education requirements for private
14 detectives.

15 (2) The director shall consult with the private detective industry
16 and law enforcement before adopting or amending the preassignment
17 training or continuing education requirements of this section.

18 (3) A private detective need not fulfill the preassignment training
19 requirements of this chapter if he or she, within sixty days of the
20 effective date of this act, provides proof to the director that he or
21 she previously has met the training requirements of this chapter or has
22 been employed as a private detective or armed private detective for at
23 least eighteen consecutive months immediately prior to the date of
24 application.

25 NEW SECTION. **Sec. 10.** (1) No private detective agency license
26 may be issued under the provisions of this chapter unless the applicant
27 files with the director a surety bond, executed by a surety company
28 authorized to do business in this state, in the sum of ten thousand

1 dollars conditioned to recover against the principal and its servants,
2 officers, agents, and employees by reason of its wrongful or illegal
3 acts in conducting business licensed under this chapter. The bond
4 shall be made payable to the state of Washington, and anyone so injured
5 by the principal or its servants, officers, agents, or employees shall
6 have the right and shall be permitted to sue directly upon this
7 obligation in his or her own name. This obligation shall be subject to
8 successive suits for recovery until the face amount is completely
9 exhausted.

10 (2) Every licensee must at all times maintain on file with the
11 director the surety bond required by this section in full force and
12 effect. Upon failure by a licensee to do so, the director shall
13 suspend the licensee's license and shall not reinstate the license
14 until this requirement is met.

15 (3) In lieu of posting bond, a licensed private detective agency
16 may file with the director a certificate of insurance as evidence that
17 it has comprehensive general liability coverage of at least twenty-five
18 thousand dollars for bodily or personal injury and twenty-five thousand
19 dollars for property damage.

20 NEW SECTION. **Sec. 11.** (1) The provisions of this chapter
21 relating to the licensing for regulatory purposes of private
22 detectives, armed private detectives, and private detective agencies
23 are exclusive. No governmental subdivision of this state may enact any
24 laws or rules licensing for regulatory purposes such persons, except as
25 provided in subsections (2) and (3) of this section.

26 (2) This section shall not be construed to prevent a political
27 subdivision of this state from levying a business fee, business and
28 occupation tax, or other tax upon private detective agencies if such

1 fees or taxes are levied by the state on other types of businesses
2 within its boundaries.

3 (3) This section shall not be construed to prevent this state or a
4 political subdivision of this state from licensing for regulatory
5 purposes private detective agencies with respect to activities that are
6 not regulated under this chapter.

7 NEW SECTION. **Sec. 12.** Private detectives or armed private
8 detectives whose duties require them to operate across state lines may
9 operate in this state for up to thirty days per year, if they are
10 properly registered and certified in another state with training and
11 certification requirements that the director finds are at least equal
12 to the requirements of this state.

13 NEW SECTION. **Sec. 13.** (1) A private detective agency shall
14 notify the director within thirty days after the death or termination
15 of employment of any employee who is a licensed private detective or
16 armed private detective.

17 (2) A private detective agency shall notify the director within
18 seventy-two hours and the chief law enforcement officer of the county,
19 city, or town in which the agency is located immediately upon receipt
20 of information affecting a licensed private detective's or armed
21 private detective's continuing eligibility to hold a license under the
22 provisions of this chapter.

23 NEW SECTION. **Sec. 14.** (1) Any person from another state that
24 the director determines has selection, training, and other requirements
25 at least equal to those required by this chapter, and who holds a valid
26 license, registration, identification, or similar card issued by the
27 other state, may apply for a private detective license card or armed

1 private detective license card on a form prescribed by the director.
2 Upon receipt of a processing fee to be determined by the director, the
3 director shall issue the individual a private detective license card or
4 armed private detective license card.

5 (2) A valid license, registration, identification, or similar card
6 issued by any other state of the United States is valid in this state
7 for a period of ninety days, but only if the licensee is on temporary
8 assignment for the same employer that employs the licensee in the state
9 in which he or she is a permanent resident.

10 NEW SECTION. **Sec. 15.** (1) After June 30, 1992, any person who
11 performs the functions and duties of a private detective in this state
12 without being licensed in accordance with the provisions of this
13 chapter, or any person presenting or attempting to use as his or her
14 own the license of another, or any person who gives false or forged
15 evidence of any kind to the director in obtaining a license, or any
16 person who falsely impersonates any other licensee, or any person who
17 attempts to use an expired or revoked license, or any person who
18 violates any of the provisions of this chapter is guilty of a gross
19 misdemeanor.

20 (2) After January 1, 1992, a person is guilty of a gross
21 misdemeanor if he or she owns or operates a private detective agency in
22 this state without first obtaining a private detective agency license.

23 (3) After June 30, 1992, the owner or qualifying agent of a private
24 detective agency is guilty of a gross misdemeanor if he or she employs
25 any person to perform the duties of a private detective without the
26 employee having in his or her possession a permanent private detective
27 license issued by the department. This shall not preclude a private
28 detective agency from requiring applicants to attend preassignment

1 training classes or from paying wages for attending the required
2 preassignment training classes.

3 (4) After June 30, 1992, a person is guilty of a gross misdemeanor
4 if he or she performs the functions and duties of an armed private
5 detective in this state unless the person holds a valid armed private
6 detective license issued by the department.

7 (5) After June 30, 1992, it is a gross misdemeanor for a private
8 detective agency to hire, contract with, or otherwise engage the
9 services of an unlicensed armed private detective knowing that the
10 private detective does not have a valid armed private detective license
11 issued by the director.

12 (6) It is a gross misdemeanor for a person to possess or use any
13 vehicle or equipment displaying the word "police" or "law enforcement
14 officer" or having any sign, shield, marking, accessory, or insignia
15 that indicates that the equipment or vehicle belongs to a public law
16 enforcement agency.

17 (7) It is the duty of all officers of the state and political
18 subdivisions thereof to enforce the provisions of this chapter. The
19 attorney general shall act as legal adviser of the director, and render
20 such legal assistance as may be necessary in carrying out the
21 provisions of this chapter.

22 NEW SECTION. **Sec. 16.** The following acts are prohibited and
23 constitute grounds for disciplinary action or denial, suspension, or
24 revocation of any license under this chapter, as deemed appropriate by
25 the director:

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

28 (2) Knowingly making a material misstatement or omission in the
29 application for or renewal of a license or firearms certificate;

1 (3) Not meeting the qualifications set forth in section 3, 4, or 5
2 of this act;

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

5 (5) Carrying a firearm in the performance of his or her duties if
6 not the holder of a valid armed private detective license, or carrying
7 a firearm not meeting the provisions of this chapter while in the
8 performance of his or her duties;

9 (6) Failing to return immediately on demand company identification,
10 badges, or other items issued to the private detective by an employer;

11 (7) Making any statement that would reasonably cause another person
12 to believe that the private detective is a sworn peace officer;

13 (8) Divulging confidential information obtained in the course of
14 any investigation to which he or she was assigned;

15 (9) Acceptance of employment that is adverse to a client or former
16 client and relates to a matter about which a licensee has obtained
17 confidential information by reason of or in the course of the
18 licensee's employment by the client;

19 (10) Conviction of a gross misdemeanor or felony or the commission
20 of any act involving moral turpitude, dishonesty, or corruption whether
21 the act constitutes a crime or not. If the act constitutes a crime,
22 conviction in a criminal proceeding is not a condition precedent to
23 disciplinary action. Upon such a conviction, however, the judgment and
24 sentence is conclusive evidence at the ensuing disciplinary hearing of
25 the guilt of the license holder or applicant of the crime described in
26 the indictment or information, and of the person's violation of the
27 statute on which it is based. For the purposes of this section,
28 conviction includes all instances in which a plea of guilty or nolo
29 contendere is the basis for the conviction and all proceedings in which

1 the sentence has been deferred or suspended. Nothing in this section
2 abrogates rights guaranteed under chapter 9.96A RCW;

3 (11) Advertising that is false, fraudulent, or misleading;

4 (12) Incompetence or negligence that results in injury to a person
5 or that creates an unreasonable risk that a person may be harmed;

6 (13) Suspension, revocation, or restriction of the individual's
7 license to practice the profession by competent authority in any state,
8 federal, or foreign jurisdiction, a certified copy of the order,
9 stipulation, or agreement being conclusive evidence of the revocation,
10 suspension, or restriction;

11 (14) Failure to cooperate with the director by:

12 (a) Not furnishing any necessary papers or documents requested by
13 the director for purposes of conducting an investigation for
14 disciplinary action, denial, suspension, or revocation of a license
15 under this chapter;

16 (b) Not furnishing in writing a full and complete explanation
17 covering the matter contained in a complaint filed with the department;
18 or

19 (c) Not responding to subpoenas issued by the director, whether or
20 not the recipient of the subpoena is the accused in the proceeding;

21 (15) Failure to comply with an order issued by the director or an
22 assurance of discontinuance entered into with the director;

23 (16) Aiding or abetting an unlicensed person to practice if a
24 license is required;

25 (17) Misrepresentation or fraud in any aspect of the conduct of the
26 business or profession;

27 (18) Failure to adequately supervise employees to the extent that
28 the public health or safety is at risk;

29 (19) Interference with an investigation or disciplinary proceeding
30 by willful misrepresentation of facts before the director or the

1 director's authorized representative, or by the use of threats or
2 harassment against any client or witness to prevent them from providing
3 evidence in a disciplinary proceeding or any other legal action; or

4 (20) Assigning or transferring any license issued pursuant to the
5 provisions of this chapter, except as provided in section 5 of this
6 act.

7 NEW SECTION. **Sec. 17.** The director has the following
8 authority in administering this chapter:

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

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

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

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

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

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

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

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

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

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

4 (11) To enter into an assurance of discontinuance in lieu of
5 issuing a statement of charges or conducting a hearing. The assurance
6 shall consist of a statement of the law in question and an agreement to
7 not violate the stated provision. The applicant or license holder
8 shall not be required to admit to any violation of the law, and the
9 assurance shall not be construed as such an admission. Violation of an
10 assurance under this subsection is grounds for disciplinary action;

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

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

15 (14) To compel attendance of witnesses at hearings.

16 NEW SECTION. **Sec. 18.** A person, including but not limited to
17 consumers, licensees, corporations, organizations, and state and local
18 governmental agencies, may submit a written complaint to the department
19 charging a license holder or applicant with unprofessional conduct and
20 specifying the grounds for the charge. If the director determines that
21 the complaint merits investigation, or if the director has reason to
22 believe, without a formal complaint, that a license holder or applicant
23 may have engaged in unprofessional conduct, the director shall
24 investigate to determine if there has been unprofessional conduct. A
25 person who files a complaint under this section in good faith is immune
26 from suit in any civil action related to the filing or contents of the
27 complaint.

1 NEW SECTION. **Sec. 19.** (1) If the director determines, upon
2 investigation, that there is reason to believe a violation of this
3 chapter has occurred, a statement of charges shall be prepared and
4 served upon the license holder or applicant and notice of this action
5 given to the owner or qualifying agent of the employing private
6 detective agency. The statement of charges shall be accompanied by a
7 notice that the license holder or applicant may request a hearing to
8 contest the charges. The license holder or applicant must file a
9 request for hearing with the department within twenty days after being
10 served the statement of charges. The failure to request a hearing
11 constitutes a default, whereupon the director may enter an order
12 pursuant to RCW 34.05.440.

13 (2) If a hearing is requested, the time of the hearing shall be
14 scheduled but the hearing shall not be held earlier than thirty days
15 after service of the charges upon the license holder or applicant. A
16 notice of hearing shall be issued at least twenty days prior to the
17 hearing, specifying the time, date, and place of the hearing.

18 NEW SECTION. **Sec. 20.** The procedures governing adjudicative
19 proceedings before agencies under chapter 34.05 RCW, the administrative
20 procedure act, govern all hearings before the director.

21 NEW SECTION. **Sec. 21.** (1) If the director believes a license
22 holder or applicant may be unable to practice with reasonable skill and
23 safety to the public by reason of any mental or physical condition, a
24 statement of charges shall be served on the license holder or applicant
25 and notice shall also be issued providing an opportunity for a hearing.
26 The hearing shall be limited to the sole issue of the capacity of the
27 license holder or applicant to practice with reasonable skill or
28 safety. If the director determines that the license holder or

1 applicant is unable to practice with reasonable skill and safety for
2 one of the reasons stated in this subsection, the director shall impose
3 such sanctions as are deemed necessary to protect the public.

4 (2) In investigating or adjudicating a complaint or report that a
5 license holder or applicant may be unable to practice with reasonable
6 skill or safety by reason of a mental or physical condition, the
7 department may require a license holder or applicant to submit to a
8 mental or physical examination by one or more licensed or certified
9 health professionals designated by the director. The cost of the
10 examinations ordered by the department shall be paid by the department.
11 In addition to any examinations ordered by the department, the licensee
12 may submit physical or mental examination reports from licensed or
13 certified health professionals of the license holder's or applicant's
14 choosing and expense. Failure of the license holder or applicant to
15 submit to examination when directed constitutes grounds for immediate
16 suspension or withholding of the license, consequent upon which a
17 default and final order may be entered without the taking of testimony
18 or presentations of evidence, unless the failure was due to
19 circumstances beyond the person's control. A determination by a court
20 of competent jurisdiction that a license holder or applicant is
21 mentally incompetent or mentally ill is presumptive evidence of the
22 license holder's or applicant's inability to practice with reasonable
23 skill and safety. An individual affected under this section shall at
24 reasonable intervals be afforded an opportunity to demonstrate that the
25 individual can resume competent practice with reasonable skill and
26 safety to the public.

27 (3) For the purpose of subsection (2) of this section, an applicant
28 or license holder governed by this chapter, by making application,
29 practicing, or filing a license renewal, is deemed to have given
30 consent to submit to a mental, physical, or psychological examination

1 if directed in writing by the department and further to have waived all
2 objections to the admissibility or use of the examining health
3 professional's testimony or examination reports by the director on the
4 ground that the testimony or reports constitute hearsay or privileged
5 communications.

6 NEW SECTION. **Sec. 22.** Upon a finding that a license holder or
7 applicant has committed unprofessional conduct or is unable to practice
8 with reasonable skill and safety due to a physical or mental condition,
9 the director may issue an order providing for one or any combination of
10 the following:

11 (1) Revocation of the license;

12 (2) Suspension of the license for a fixed or indefinite term;

13 (3) Restriction or limitation of the practice;

14 (4) Requiring the satisfactory completion of a specific program of
15 remedial education or treatment;

16 (5) Monitoring of the practice by a supervisor approved by the
17 director;

18 (6) Censure or reprimand;

19 (7) Compliance with conditions of probation for a designated period
20 of time;

21 (8) Withholding a license request;

22 (9) Other corrective action; or

23 (10) Refund of fees billed to and collected from the consumer.

24 Any of the actions under this section may be totally or partly
25 stayed by the director. All costs associated with compliance with
26 orders issued under this section are the obligation of the license
27 holder or applicant.

1 NEW SECTION. **Sec. 23.** If an order for payment of a fine is
2 made as a result of a hearing and timely payment is not made as
3 directed in the final order, the director may enforce the order for
4 payment in the superior court in the county in which the hearing was
5 held. This right of enforcement shall be in addition to any other
6 rights the director may have as to a licensee ordered to pay a fine but
7 shall not be construed to limit a licensee's ability to seek judicial
8 review.

9 In an action for enforcement of an order of payment of a fine, the
10 director's order is conclusive proof of the validity of the order of
11 payment of a fine and the terms of payment.

12 NEW SECTION. **Sec. 24.** (1) The director shall investigate
13 complaints concerning practice by unlicensed persons of a profession or
14 business for which a license is required by this chapter. In the
15 investigation of the complaints, the director shall have the same
16 authority as provided the director under section 19 of this act. The
17 director shall issue a cease and desist order to a person after notice
18 and hearing and upon a determination that the person has violated this
19 subsection. If the director makes a written finding of fact that the
20 public interest will be irreparably harmed by delay in issuing an
21 order, the director may issue a temporary cease and desist order. The
22 cease and desist order shall not relieve the person practicing or
23 operating a business without a license from criminal prosecution
24 therefor, but the remedy of a cease and desist order shall be in
25 addition to any criminal liability. The cease and desist order is
26 conclusive proof of unlicensed practice and may be enforced under RCW
27 7.21.060. This method of enforcement of the cease and desist order may
28 be used in addition to, or as an alternative to, any provisions for
29 enforcement of agency orders.

1 (2) The attorney general, a county prosecuting attorney, the
2 director, or any person may, in accordance with the law of this state
3 governing injunctions, maintain an action in the name of this state to
4 enjoin any person practicing a profession or business for which a
5 license is required by this chapter without a license from engaging in
6 such practice or operating such business until the required license is
7 secured. However, the injunction shall not relieve the person
8 practicing or operating a business without a license from criminal
9 prosecution therefor, but the remedy by injunction shall be in addition
10 to any criminal liability.

11 (3) Unlicensed practice of a profession or operating a business for
12 which a license is required by this chapter, unless otherwise exempted
13 by law, constitutes a gross misdemeanor. All fees, fines, forfeitures,
14 and penalties collected or assessed by a court because of a violation
15 of this section shall be remitted to the department.

16 NEW SECTION. **Sec. 25.** A person or business that violates an
17 injunction issued under this chapter shall pay a civil penalty, as
18 determined by the court, of not more than twenty-five thousand dollars,
19 which shall be paid to the department. For the purpose of this
20 section, the superior court issuing any injunction shall retain
21 jurisdiction and the cause shall be continued, and in such cases the
22 attorney general acting in the name of the state may petition for the
23 recovery of civil penalties.

24 NEW SECTION. **Sec. 26.** The director or individuals acting on
25 the director's behalf are immune from suit in any action, civil or
26 criminal, based on disciplinary proceedings or other official acts
27 performed in the course of their duties in the administration and
28 enforcement of this chapter.

1 NEW SECTION. **Sec. 27.** The director, in implementing and
2 administering the provisions of this chapter, shall act in accordance
3 with the administrative procedure act, chapter 34.05 RCW.

4 NEW SECTION. **Sec. 28.** A new section is added to chapter 43.101
5 RCW to read as follows:

6 The commission shall establish a program for issuing firearms
7 certificates to private detectives for the purposes of obtaining armed
8 private detective licenses. The commission shall adopt rules
9 establishing the fees, training requirements, and procedures for
10 obtaining and annually renewing firearms certificates. The fees charged
11 by the commission shall recover the costs incurred by the commission in
12 administering the firearms certificate program.

13 (1) Firearms training must be provided by an organization or
14 trainer approved by the commission and must consist of at least eight
15 hours of classes and proficiency training.

16 (2) Applications for firearms certificates shall be filed with the
17 commission on a form provided by the commission. The commission may
18 require any information and documentation that reasonably relates to
19 the need to determine whether the applicant qualifies for a firearms
20 certificate. Applicants must:

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

22 (b) Possess a current private detective license; and

23 (c) Present a written request from the owner or qualifying agent of
24 a licensed private detective agency that the applicant be issued a
25 firearms certificate.

26 (3) The commission shall consult with the private security industry
27 and law enforcement before adopting or amending the training
28 requirements of this section.

1 (4) The commission may adopt rules that are reasonable and
2 necessary for the effective implementation and administration of this
3 section consistent with chapter 34.05 RCW.

4 NEW SECTION. **Sec. 29.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 30.** Sections 1 through 27 of this act shall
9 constitute a new chapter in Title 18 RCW.

10 NEW SECTION. **Sec. 31.** If specific funding for the purposes of
11 this act, referencing this act by bill number, is not provided by June
12 30, 1991, in the omnibus appropriations act, this act shall be null and
13 void.