

SENATE BILL 5125

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By Senators Erwin, Gaspard, Amondson, Matson, Owen, Snyder, Nelson, von Reichbauer, Thorsness, Sellar, Johnson, Murray, McMullen, Bailey, Anderson and Talmadge.

Read first time January 22, 1991. Referred to Committee on Commerce & Labor.

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; prescribing penalties; making appropriations;
4 and providing an effective date.

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 under section 20 of this act and is
11 licensed as an armed private detective under this chapter.

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

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

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

3 (5) "Firearms certificate" means a certificate issued by the
4 criminal justice training commission under section 20 of this act.

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

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

12 (8) "Private detective" means a person who is licensed under this
13 chapter and is employed by a private detective agency for the purpose
14 of investigation, escort or body guard services, or property loss
15 prevention activities.

16 (9) "Private detective agency" means a person or entity licensed
17 under this chapter and engaged in the business of detecting,
18 discovering, or revealing one or more of the following:

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

20 (b) The identity, habits, conduct, business, occupation, honesty,
21 integrity, credibility, knowledge, trustworthiness, efficiency,
22 loyalty, activity, movement, whereabouts, affiliations, associations,
23 transactions, acts, reputation, or character of any person, firm,
24 corporation, or thing;

25 (c) The location, disposition, or recovery of lost or stolen
26 property;

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

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

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

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

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

6 (11) "Sworn peace officer" means a person who is an employee of the
7 federal government, the state, or a political subdivision, agency, or
8 department branch of a municipality or other unit of local government,
9 and has law enforcement powers.

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

12 (1) A person who is employed exclusively or regularly by one
13 employer and performs investigations solely in connection with the
14 affairs of that employer;

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

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

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

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

25 (6) Insurers, agents, and insurance brokers licensed by the state,
26 while performing duties in connection with insurance transacted by
27 them;

28 (7) A bank subject to the jurisdiction of the Washington state
29 banking commission or the comptroller of currency of the United States,

1 or a savings and loan association subject to the jurisdiction of this
2 state or the federal home loan bank board;

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

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

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

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

14 NEW SECTION. **Sec. 3.** (1) A person is guilty of a misdemeanor if
15 he or she performs the functions and duties of a private detective in
16 this state without first obtaining a private detective's license.

17 (2) A person is guilty of a misdemeanor if he or she falsely
18 represents himself or herself as being employed by, or as being, a
19 licensee under this chapter.

20 (3) After June 30, 1992, a person is guilty of a misdemeanor if he
21 or she performs the functions and duties of an armed private detective
22 in this state unless the person has a current firearms certificate
23 issued under section 20 of this act and an armed private detective
24 license issued by the director.

25 NEW SECTION. **Sec. 4.** (1) An applicant must meet the following
26 requirements to obtain a private detective license:

27 (a) Be at least eighteen years of age;

28 (b) Be a citizen or resident alien of the United States;

1 (c) Not have been convicted of a felony in the last ten years in
2 any jurisdiction, if the director determines that the particular felony
3 directly relates to the duties of a private detective;

4 (d) Be employed by or have an employment offer from a private
5 detective agency;

6 (e) Submit a set of fingerprints; and

7 (f) Pay the required fee.

8 (2) In addition to meeting the requirements of subsection (1) of
9 this section, an applicant, or, in the case of a partnership or limited
10 partnership, each partner, or, in the case of a corporation, the
11 qualifying agent must be at least twenty-one years of age and meet the
12 following requirements to obtain a private detective agency license:

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

16 (b) Have had at least three years' experience in investigative work
17 or its equivalent as determined by the director. A year's experience
18 means not less than two thousand hours of actual compensated work
19 performed before the filing of an application. An applicant shall
20 substantiate the experience by written certifications from previous
21 employers. If the applicant is unable to supply written certifications
22 from previous employers, applicants may offer written certifications
23 from persons other than employers who, based on personal knowledge, can
24 substantiate the employment.

25 (3) An applicant must meet the following requirements to obtain an
26 armed private detective license:

27 (a) Be licensed as a private detective under subsection (1) of this
28 section;

29 (b) Have a current firearms certificate issued by the criminal
30 justice training commission under section 20 of this act; and

1 (c) Pay the fee established by the director.

2 NEW SECTION. **Sec. 5.** (1) Applications for licenses required
3 under this chapter shall be filed with the director on a form provided
4 by the director. The director may require any information and
5 documentation that reasonably relates to the need to determine whether
6 the applicant meets the criteria. License applications filed by
7 corporations shall include the names of all officers and directors of
8 the corporation.

9 (2) After receipt of an application for a license, the director
10 shall conduct an investigation to determine whether the facts set forth
11 in the application are true and shall request that the Washington state
12 patrol compare the fingerprints submitted with the application to
13 fingerprint records available to the Washington state patrol.

14 (3) A summary of the information acquired under this section, to
15 the extent that it is public information, shall be forwarded by the
16 department to the applicant's employer and to the chief law enforcement
17 executive of the county and city or town in which the applicant's
18 employer is located.

19 NEW SECTION. **Sec. 6.** The private detective license does not
20 entitle a private detective to solicit, for himself or herself,
21 business for the purpose of investigation. The private detective
22 agency employing the private detective is responsible for the private
23 detective's actions while actively employed by the agency.

24 NEW SECTION. **Sec. 7.** The director shall establish investigation,
25 examination, license, renewal, and other fees as required to administer
26 this chapter, in accordance with RCW 43.24.086.

1 NEW SECTION. **Sec. 8.** Except as provided in this chapter, a
2 license issued pursuant to the provisions of this chapter may not be
3 assigned or transferred.

4 NEW SECTION. **Sec. 9.** Unless directed by his or her employer or
5 client or unless required by law, it is a misdemeanor for any person
6 who is or has been an employee of a private detective agency to divulge
7 any information that was acquired by the person during the employment
8 and is not publicly available information.

9 NEW SECTION. **Sec. 10.** The following acts are prohibited and
10 constitute grounds for disciplinary action or denial, suspension, or
11 revocation of a license under this chapter, as deemed appropriate by
12 the director:

13 (1) Knowingly making a material false statement relating to
14 evidence or information obtained in the course of employment or
15 knowingly publishing a slander or libel in the course of business;

16 (2) Using illegal means in the collection or attempted collection
17 of a debt or obligation;

18 (3) Manufacturing evidence;

19 (4) Acceptance of employment that is adverse to a client or former
20 client and relates to a matter about which a licensee has obtained
21 confidential information by reason of or in the course of the
22 licensee's employment by the client;

23 (5) Knowingly making a material misstatement in the application for
24 a license or renewal;

25 (6) Conviction of a felony;

26 (7) Using false or misleading advertisements for the purpose of
27 directly or indirectly soliciting business; or

28 (8) Allowing one's license to be used by an unlicensed person.

1 NEW SECTION. **Sec. 11.** Every advertisement by a licensee
2 soliciting or advertising business shall contain his or her name,
3 address, and license number as they appear in the records of the
4 director. The director may adopt rules defining the term
5 "advertisement" as used in this section.

6 NEW SECTION. **Sec. 12.** (1) The director shall adopt rules
7 establishing preassignment training and testing requirements,
8 continuing education requirements, and the procedure for obtaining and
9 renewing private detective licenses, armed private detective licenses,
10 and private detective agency licenses pursuant to chapter 34.05 RCW.
11 The preassignment training requirements must consist of at least four
12 hours of classes.

13 (2) The director shall consult with representatives of the private
14 detective industry, public law enforcement, and other interested
15 parties before adopting or amending the training requirements of this
16 section.

17 (3) The director may adopt rules that are reasonable and necessary
18 for the effective implementation and administration of this chapter.

19 NEW SECTION. **Sec. 13.** (1) A person licensed under this
20 chapter who carries a firearm in the performance of his or her duties
21 must possess a current firearms certificate issued under section 20 of
22 this act and an armed private detective license.

23 (2) A person may not perform the functions of an armed private
24 detective in this state unless he or she is employed by a licensed
25 private detective agency and is licensed as an armed private detective
26 by the director.

27 (3) It is unlawful for any person to hire, contract with, or
28 otherwise engage the services of an armed private detective knowing

1 that the detective does not have a current valid firearms certificate
2 issued under section 20 of this act and an armed private detective
3 license issued by the director.

4 NEW SECTION. **Sec. 14.** (1) An armed private detective license
5 grants authority to the holder, while in the performance of his or her
6 duties, to carry a standard police .38-caliber handgun or other firearm
7 approved by the director and with which the holder has met the
8 proficiency requirements established under section 20 of this act.

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

12 NEW SECTION. **Sec. 15.** (1) Except as provided by subsection
13 (3) of this section, no private detective agency license may be issued
14 under the provisions of this chapter unless the applicant files with
15 the director a surety bond, executed by a surety company authorized to
16 do business in this state, in the sum of ten thousand dollars
17 conditioned to recover against the principal and its servants,
18 officers, agents, and employees by reason of its wrongful or illegal
19 acts in conducting business licensed under this chapter. The bond
20 shall be made payable to the state of Washington, and anyone so injured
21 by the principal or its servants, officers, agents, or employees shall
22 have the right and shall be permitted to sue directly upon this
23 obligation in his or her own name. This obligation shall be subject to
24 successive suits for recovery until the face amount is completely
25 exhausted.

26 (2) Every licensee must at all times maintain on file with the
27 director the surety bond required by this section in full force and
28 effect. Upon failure by a licensee to do so, the director shall

1 suspend the licensee's license and shall not reinstate the license
2 until this requirement is met.

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

8 NEW SECTION. **Sec. 16.** (1) The provisions of this chapter
9 relating to the licensing and regulation of private detectives, armed
10 private detectives, and private detective agencies are exclusive. No
11 governmental subdivision of this state may enact any laws or rules
12 licensing or regulating such persons, except as provided in subsections
13 (2) and (3) of this section.

14 (2) This section shall not be construed to prevent a political
15 subdivision of this state from levying a business and occupation tax
16 upon private detective agencies if a business and occupation tax is
17 levied by the state on other types of businesses within its boundaries.

18 (3) This section shall not be construed to prevent this state or
19 a political subdivision of this state from licensing or regulating
20 private detective agencies with respect to activities that are not
21 regulated under this chapter.

22 NEW SECTION. **Sec. 17.** Private detectives whose duties require
23 them to operate across state lines may operate in this state for up to
24 thirty days per year, if they are properly registered and certified in
25 another state with training and certification requirements that the
26 director finds are at least equal to the requirements of this state.

1 NEW SECTION. **Sec. 18.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provisions to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 19.** This act takes effect September 1,
6 1991. The director of licensing and the criminal justice training
7 commission may immediately take such steps as are necessary to ensure
8 that this act is implemented on its effective date.

9 NEW SECTION. **Sec. 20.** A new section is added to chapter 43.101
10 RCW to read as follows:

11 The commission shall establish a program for issuing firearms
12 certificates. The commission shall adopt rules under chapter 34.05 RCW
13 establishing the training requirements and procedure for obtaining and
14 renewing firearms certificates and establishing fees for issuing and
15 renewing certificates that cover the costs to the commission of
16 administering the firearms certificate program.

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

20 (2) Applications for firearms certificates shall be filed with the
21 commission on a form provided by the commission. The commission may
22 require any information and documentation that reasonably relates to
23 the need to determine whether the applicant qualifies for a firearms
24 certificate.

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

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

4 NEW SECTION. **Sec. 21.** There is appropriated from the general
5 fund to the department of licensing for the biennium ending June 30,
6 1993, the sum of dollars, or as much thereof as may be
7 necessary, to carry out the purposes of this act. The amount spent
8 shall be repaid to the general fund from fees imposed as a result of
9 this act prior to June 30, 1993.

10 NEW SECTION. **Sec. 22.** The sum of dollars, or as
11 much thereof as may be necessary, is appropriated from the general fund
12 to the criminal justice training commission for the biennium ending
13 June 30, 1993, to carry out the purposes of this act. The amount spent
14 shall be repaid to the general fund from fees imposed as a result of
15 this act prior to June 30, 1993.

16 NEW SECTION. **Sec. 23.** Sections 1 through 18 of this act shall
17 constitute a new chapter in Title 18 RCW.