

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Apr 4, 2017
S.B. 634
PRINCIPAL CLERK

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SENATE BILL DRS15145-MQf-99 (03/17)

Short Title: Private Protective Services Changes. (Public)

Sponsors: Senator Daniel (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE PRIVATE PROTECTIVE SERVICES
3 ACT AND THE ALARM SYSTEMS LICENSING ACT AND TO CREATE CERTAIN
4 FEES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 74C-3 reads as rewritten:

7 "§ 74C-3. Private protective services profession defined.

8 (a) As used in this Chapter, the term "private protective services profession" means and
9 includes the following:

10 ...

11 (5a) Electronic countermeasures profession. – Any person, firm, association, or
12 corporation which for a fee or other valuable consideration discovers,
13 locates, or disengages by electronic, electrical, or mechanical means any
14 listening of the following:

15 a. Listening or other monitoring equipment surreptitiously placed to
16 gather information concerning any individual, firm, association, or
17 corporation.

18 b. Any device intended to block the transmission of any electronic
19 signal.

20 ...

21 (10) Close personal protection. – Any individual, firm, association, or corporation
22 that, for a fee or other valuable consideration, provides or offers to provide
23 security measures to ensure the safety of a business executive, elected or
24 appointed public official, celebrity, or other individuals who may be exposed
25 to elevated personal risk due to employment, status, wealth, associations, or
26 geographical location.

27 (b) "Private protective services" shall not include any of the following:

28 ...

29 (18) A person under contract or employed by an occupational licensing board as
30 defined by G.S. 93B-1, while performing an investigation solely for that
31 board."

32 SECTION 2. G.S. 74C-5 reads as rewritten:

33 "§ 74C-5. Powers of the Board.

34 In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board
35 shall have the power to do all of the following:

36 ...



- 1 (13) With the concurrence of the Secretary of Public Safety, issue, cease, and
2 desist letters regarding unlicensed activity.
- 3 (14) Subject to approval of the Governor and the Council of State, acquire, hold,
4 rent, encumber, alienate, and otherwise deal with real property in the same
5 manner as a private person or corporation. Any collateral pledged by the
6 Board for encumbrance is limited to the assets, income, and revenue of the
7 Board.
- 8 (15) Adopt rules establishing standards for the use of firearms or other weapon
9 approved by the Board.
- 10 (16) Adopt and publish a code of professional conduct for licensees, registrants,
11 certificate holders, and permit holders."

12 **SECTION 3.** G.S. 74C-7 reads as rewritten:

13 **"§ 74C-7. Investigative powers of the Secretary of Public Safety.**

14 The Secretary of Public Safety for the State of North Carolina shall have the power to
15 investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing
16 or violations of this Chapter involving ~~individuals licensed, unlicensed individuals, licensed~~
17 individuals, or individuals to be licensed, licensed under this Chapter. Any investigation
18 conducted pursuant to this section is confidential and is not subject to review under G.S. 132-1
19 until the investigation is complete and a report is presented to the Board. However, the report
20 may be released to the licensee after the investigation is complete but before the report is
21 presented to the Board. The Secretary shall retain the authority to enforce the provisions of this
22 Chapter and impose any penalty authorized by G.S. 74C-12(a) and G.S. 74C-17 against any
23 individual or entity who is under investigation for or charged with a violation of this Chapter,
24 including individuals and entities with lapsed or surrendered licenses or registrations."

25 **SECTION 4.** G.S. 74C-8 reads as rewritten:

26 **"§ 74C-8. License requirements.**

27 ...

28 (c) Qualifying Agent. – A business entity, other than a sole proprietorship, that engages
29 in private protective services is subject to all of the requirements listed in this subsection with
30 respect to a qualifying agent. For purposes of this Chapter, a "qualifying agent" is an individual
31 in a management position who is licensed under this Chapter and whose name and address have
32 been registered with the Director. The requirements are:

33 ...

- 34 (3) In the event that the qualifying agent upon whom the business entity relies in
35 order to do business ceases to perform his duties as qualifying agent, the
36 business entity shall notify the Director within 10 working days. The
37 business entity must obtain a substitute qualifying agent within ~~30-90~~ 30-90 days
38 after the original qualifying agent ceases to serve as qualifying agent unless
39 the Board, in its discretion, extends ~~this the 90-day~~ this the 90-day period, for good cause,
40 ~~for a period of time not to exceed three months.~~ an additional 30 days upon
41 the filing of a petition by the business entity and upon a hearing by the
42 Board. The Board may require the payment of a late fee for a business entity
43 failing to obtain a substitute qualifying agent pursuant to the requirements of
44 this subdivision.

45 ...

46 (f) Issuance. – Upon a finding that the application is in proper form, the completion of
47 the background investigation, and the completion of an examination required by the Board, the
48 Director shall submit to the Board the application and the Director's recommendations. Upon
49 completion of the background investigation, the Director may issue a temporary license
50 pending approval of the application by the Board at the next regularly scheduled meeting. The
51 Board shall determine whether to approve or deny the application for a license. Upon approval

1 by the Board, a license will be issued to the applicant upon payment by the applicant of the
2 initial license fee and the required contribution to the Private Protective Services Education
3 Fund, and the filing of a certificate of liability insurance with the Board. The
4 applicant shall pay the initial license fee and make the required contribution to the Fund within
5 90 days from the date the applicant receives notice of pending licensure approval unless the
6 Board, in its discretion and for good cause, extends the 90-day period for an additional 30 days
7 upon the filing of a petition by the applicant and a hearing by the Board. The Board may
8 require the payment of a late fee for an applicant failing to pay the initial license fee or for
9 failing to make the contribution to the Fund pursuant to this subsection.

10"

11 **SECTION 5.** G.S. 74C-9 reads as rewritten:

12 **"§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable; late**
13 **renewal fee.**

14 ...

15 (e) The Board is authorized to charge reasonable application and license fees as
16 follows:

17 ...

18 (7) An application fee for a firearm registration permit for all applicants and for
19 licensees subject to G.S. 74C-13 not to exceed fifty dollars (\$50.00).

20 (8) A new, renewal, replacement, or reissuance fee for a firearm registration
21 permit for all applicants and for licensees subject to G.S. 74C-13 not to
22 exceed thirty dollars (\$30.00).

23 ...

24 (16) A late fee for a business entity subject to G.S. 74C-8(c)(3) or an applicant
25 for licensure under G.S. 74C-8(f) not to exceed one hundred dollars
26 (\$100.00).

27 Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be
28 expended, under the direction of the Board, for the purpose of defraying the expenses of
29 administering this Chapter.

30 (f) A license or trainee permit granted under the provisions of this Chapter may be
31 renewed by the Private Protective Services Board upon notification by the licensee or permit
32 holder to the Director of intended renewal, the payment of the proper fee, and evidence of a
33 ~~policy of liability insurance~~ policy as prescribed in G.S. 74C-10(e).

34 The renewal shall be finalized before the expiration date of the license. In no event will
35 renewal be granted more than three months after the date of expiration of a license or trainee
36 permit.

37"

38 **SECTION 6.** G.S. 74C-10 reads as rewritten:

39 **"§ 74C-10. Certificate of liability insurance required; form and approval; suspension for**
40 **noncompliance.**

41 ...

42 (e) No security guard and patrol, armored car, or special limited guard and patrol
43 license shall be issued under this Chapter unless the applicant files with the Board evidence of a
44 ~~policy of liability insurance~~ insurance policy. The policy must provide for the following
45 minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury or death of one
46 person as a result of the negligent act or acts of the principal insured or his agents operating in
47 the course and scope of his employment; subject to said limit for one person, one hundred
48 thousand dollars (\$100,000) because of bodily injury or death of two or more persons as the
49 result of the negligent act or acts of the principal insured or his agents operating in the course
50 and scope of his or her agency; twenty thousand dollars (\$20,000) because of injury to or
51 destruction of property of others as the result of the negligent act or acts of the principal insured

1 or his agents operating in the course and scope of his or her agency. If ~~the licensee,~~a licensee or
 2 a trainee supervised by a licensee, other than a security guard and patrol, armored car, or
 3 special limited guard and patrol licensee, carries a firearm while engaged in private protective
 4 services activities, the licensee or trainee shall obtain a ~~policy of liability insurance~~ policy with
 5 a minimum coverage as specified above. A licensee or trainee is deemed to be "carrying a
 6 firearm" for purposes of this section while engaged in private protective services if the licensee
 7 or trainee has a firearm on the licensee's or trainee's person or in the automobile the licensee or
 8 trainee is using to perform private protective services. A licensee may provide liability
 9 insurance coverage for a trainee under the licensee's supervision; however, failure of the
 10 licensee to provide coverage shall not exempt the trainee from the requirements of this section.

11 (e) The Board shall approve the form, execution, and terms of the liability insurance
 12 policy required pursuant to this section.

13 (f) An insurance carrier shall have the right to cancel ~~such policy of a~~ liability insurance
 14 policy upon giving a 30-day notice to the Board. Provided, however, that ~~such the~~ cancellation
 15 shall not affect any liability on the policy ~~which that~~ accrued prior thereto. ~~The policy of~~
 16 ~~liability shall be approved by the Board as to form, execution, and terms thereon.~~

17 (g) ~~The holder of any trainee permit and persons~~Persons registered pursuant to
 18 G.S. 74C-11 shall not be required to obtain a certificate of liability insurance.

19"

20 **SECTION 7.** G.S. 74C-12 reads as rewritten:

21 "**§ 74C-12. Denial, suspension, or revocation of license, registration, or permit; duty to**
 22 **report criminal arrests.**

23 (a) The Board may, after compliance with Chapter 150B of the General Statutes, deny,
 24 suspend or revoke a license, certification, registration, or permit issued under this Chapter if it
 25 is determined that the applicant, licensee, trainee, registrant, or permit holder has done any of
 26 the following acts:

27 (1) Made any false statement or given any false information in connection with
 28 any application for a license, certification, registration, or permit or for the
 29 renewal or reinstatement of a license, certification, registration, or permit.

30 ...

31 (6) Engaged in or permitted any employee to engage in a private protective
 32 services profession when not lawfully in possession of a valid license or
 33 registration issued under the provisions of this Chapter.

34 ...

35 (9) Committed an unlawful breaking or entering, assault, battery, or
 36 ~~kidnapping~~kidnapping, or violated any State or federal firearms law.

37 ...

38 (24) Fraudulently held himself or herself out as employed by or licensed by the
 39 ~~State Bureau of Investigation~~Department of Public Safety or any other
 40 governmental authority.

41 ...

42 (33) Violated the code of professional conduct for licensees, registrants,
 43 certificate holders, and permit holders adopted by the Board.

44"

45 **SECTION 8.** G.S. 74C-13 reads as rewritten:

46 "**§ 74C-13. Armed licensee or registered employee required to have firearm registration**
 47 **permit; firearms training.**

48 (a) It shall be unlawful for any person performing private protective services duties to
 49 carry a firearm in the performance of those duties without first having met the qualifications of
 50 this section and having been issued a firearm registration permit by the Board. A licensee or
 51 proprietary employer described in G.S. 74C-3(b)(13) shall register any individual carrying a

1 firearm within 30 days of employment. Before engaging in any private protective services
2 activity, the individual shall receive any required training prescribed by the ~~Board~~Board,
3 unless specifically exempted from training pursuant to G.S. 74C-13.1.

4 ...

5 (d2) A proprietary security organization that employs an armed security guard shall
6 submit to the Board an application for license on a form provided by the Board for that
7 purpose. A proprietary security organization shall renew its license every two years.

8 ...

9 (h) The Board and the Secretary of Public Safety shall establish a firearms training
10 program for licensees and registered employees to be conducted by agencies and institutions
11 approved by the Board and the Secretary of Public Safety. The Board and the Secretary of
12 Public Safety may approve training programs conducted by a contract security company and
13 the security department of a proprietary security organization, if the contract security company
14 or security department of a proprietary security organization offers the courses listed in
15 subdivision (1) of this subsection and if the instructors of the training program are certified
16 trainers approved by the Board and the Secretary of Public Safety:

17 (1) The basic training course approved by the Board and the Secretary of Public
18 Safety shall consist of a minimum of four hours of classroom training which
19 shall include all of the following:

- 20 a. Legal limitations on the use of ~~hand-guns~~firearms and on the powers
21 and authority of an armed security guard.
22 b. Familiarity with this section.
23 c. Range firing and procedure and ~~hand-gun~~firearm safety and
24 maintenance.

25"

26 **SECTION 9.** Article 1 of Chapter 74C of the General Statutes is amended by
27 adding a new section to read:

28 "**§ 74C-13.1. Firearm training exemptions.**

29 (a) The following persons shall be exempt from the firearms training requirements of
30 G.S. 74C-13(b):

- 31 (1) Persons who have successfully completed the North Carolina Basic Law
32 Enforcement Training and have successfully completed the first year of
33 probationary employment.
34 (2) Persons who have retired either by years of service or by medical disability,
35 or separated in good standing as a sworn law enforcement officer from a
36 federal, State, county, or municipal law enforcement agency that included in
37 their duty the use and qualification of a firearm. Retirement or separation
38 must have occurred within three years of application pursuant to this
39 Chapter.
40 (3) Military personnel who have been honorably discharged within three years
41 of application pursuant to this Chapter and who have a military occupation
42 specialty code which includes Military Police or Criminal Investigative
43 Division.
44 (4) Employees of a nuclear power plant that are required to comply with 10
45 C.F.R. § 73.55 Appendix B, "General Criteria for Security Personnel," as
46 supplemented by Regulatory Guide 5.75.

47 (b) An applicant claiming one of the exemptions in subsection (a) of this section from
48 the 20-hour course of armed guard instruction must provide the Board the following
49 documentation, as appropriate:

- 1 (1) A copy of a North Carolina Basic Law Enforcement Training certificate and
 2 a letter from the applicant's department verifying that the probationary
 3 employment period has been completed.
 4 (2) Retirement documentation verifying sworn status, or the card issued by the
 5 North Carolina Criminal Justice Training & Standards Division authorizing
 6 concealed carry under the "Law Enforcement Officers' Safety Act," Public
 7 Law 108-277, as amended.
 8 (3) Documentation from a DD Form 214 noting a Military Police or Criminal
 9 Investigations Division military occupational specialty.
 10 (4) Documentation of retirement or separation from a federal law enforcement
 11 agency with an Office of Personnel Management job series of 1811 for
 12 Criminal Investigation.
 13 (5) Documentation of current, direct employment with a nuclear power plant
 14 located in this State.

15 (c) The Board shall deny an exemption sought pursuant to this section if the applicant
 16 fails to provide the documentation, as applicable, provided in subsection (b) of this section.

17 (d) When utilizing this exemption, the applicant must qualify within the first three
 18 attempts on the required firearm qualification course. If the applicant fails to qualify on both of
 19 required courses of fire, the applicant shall be required to undergo the entire 20-hour course of
 20 instruction.

21 (e) When utilizing this exemption, the applicant must complete the legal block of
 22 instruction required by G.S. 74C-13(h)(1) and the Board's administrative rules."

23 **SECTION 10.** G.S. 74C-17 reads as rewritten:

24 "**§ 74C-17. Enforcement.**

25 ...

26 (c) In lieu of revocation or suspension of a license or permit under G.S. 74C-12, a civil
 27 penalty of not more than two thousand dollars (\$2,000) per violation may be assessed by the
 28 Board against any person or business who violates any provision of this Chapter or any rule of
 29 the Board adopted pursuant to this Chapter. In determining the amount of any penalty, the
 30 Board shall consider the degree and extent of harm caused by the violation. The clear proceeds
 31 of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and
 32 Forfeiture Fund in accordance with G.S. 115C-457.2.

33 ...

34 (e) The Board shall be entitled to charge costs, including reasonable attorneys' fees, for
 35 any proceeding governed by Chapter 150B of the General Statutes or authorized by this
 36 section."

37 **SECTION 11.** G.S. 74C-23 reads as rewritten:

38 "**§ 74C-23. Acquisition or change of ownership or control of licensed firm, association, or**
 39 **corporation.**

40 In the event a company, firm, or corporation licensed under this Chapter transfers
 41 ownership, control, or a majority of assets to another person, firm, association, or corporation,
 42 the person, firm, association, or corporation acquiring control or ownership shall have the
 43 following responsibilities:

44 ...

- 45 (4) Provide to the Director ~~within 60-10~~ calendar days ~~from prior to the effective~~
 46 ~~date of the transaction the following:~~

- 47 a. ~~A~~ a list of all registrants ~~or and~~ licensees affected by the transaction.
 48 b. ~~Written confirmation of completion of any changes necessary for the~~
 49 ~~acquiring party to comply with the requirements of this Chapter or~~
 50 ~~any applicable rules adopted by the Board on a form approved by the~~
 51 ~~Director.~~

1 (5) Provide to the Director within 60 calendar days from the effective date of the
2 transaction, on a form provided by the Director, written confirmation of
3 completion of any changes necessary for the acquiring party to comply with
4 the requirements of this Chapter or any applicable rules adopted by the
5 Board."

6 **SECTION 12.** G.S. 14-269.3 reads as rewritten:

7 "**§ 14-269.3. Carrying weapons into assemblies and establishments where alcoholic**
8 **beverages are sold and consumed.**

9 ...
10 (b) This section shall not apply to any of the following:

11 ...
12 (4) A person registered ~~or hired~~ as a security ~~guard~~ guard, as described in
13 G.S. 74C-3(b)(13) who is hired by the owner, lessee, or person or
14 organization sponsoring the event.event or a person employed by an entity
15 licensed pursuant to G.S. 74C-2 who is hired by the owner, lessee, or person
16 or organization sponsoring the event.

17 "

18 **SECTION 13.** Section 12 of this act becomes effective December 1, 2017. The
19 remainder of this act becomes effective July 1, 2017.