

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 630
PROPOSED COMMITTEE SUBSTITUTE H630-PCS10598-Baf-14

Short Title: Private Protective Services Changes.

(Public)

Sponsors:

Referred to:

April 9, 2019

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

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 74C-3(a) reads as rewritten:

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

8 ...

9 (5) Detection of deception examiner. – Any person, firm, association, or
10 corporation ~~which~~ which, for a fee or other valuable consideration, uses any
11 device or instrument, regardless of its name or design, for the purpose of the
12 detection of deception or any person who reviews the work product of an
13 examiner including charts, tapes or other methods of record keeping for the
14 purpose of detecting deception or determining accuracy.

15 (5a) Electronic countermeasures profession. – Any person, firm, association, or
16 corporation which for a fee or other valuable consideration discovers, locates,
17 or disengages by electronic, electrical, or mechanical means any ~~listening of~~
18 the following:

19 a. Listening or other monitoring equipment surreptitiously placed to
20 gather information concerning any individual, firm, association, or
21 ~~corporation.~~ corporation.

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

23 ...

24 (8) Private detective or private investigator. – Any person who engages in the
25 profession of or accepts employment to furnish, agrees to make, or makes
26 inquiries or investigations concerning any of the following on a contractual
27 basis:

28 ...

29 f. ~~Protection of individuals from serious bodily harm or death.~~

30 ...

31 (10) Close personal protection. – Any person, firm, association, or corporation
32 which, for a fee or other valuable consideration, provides or offers to provide
33 security measures to ensure the safety of a business executive, elected or
34 appointed public official, celebrity, or other individuals who may be exposed
35 to elevated personal risk because of the individual's employment, status,
36 wealth, associations, or geographical location.



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1 (11) Digital forensics examination. – Any individual, firm, association, or
 2 corporation which, for a fee or other valuable consideration, provides or offers
 3 to provide examination of digitally stored data to recover, image, analyze, or
 4 examine the data by using software to determine responsibility or reconstruct
 5 usage of the data.

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

7 ...
 8 (17) ~~A person engaged in (i) computer or digital forensic services or in the~~
 9 ~~acquisition, review, or analysis of digital or computer-based information,~~
 10 ~~whether for the purposes of obtaining or furnishing information for~~
 11 ~~evidentiary or other purposes, or for providing expert testimony before a~~
 12 ~~court; or (ii) network or system vulnerability testing, including network scans~~
 13 ~~and risk assessment and analysis of computers connected to a~~
 14 ~~network, network, and routine service or repair.~~

15 (18) A person under contract with an occupational licensing board as defined by
 16 G.S. 93B-1 while performing an investigation solely for that board.

17 (c) Upon proof that the private investigator has provided services pursuant to former
 18 G.S. 74C-3(a)(8)f. of this section within the five years prior to July 1, 2020, a licensed North
 19 Carolina private detective may receive a close personal protection license upon payment of the
 20 applicable fee; however, upon the renewal of that license, the private investigator must meet all
 21 requirements for a close personal protection license. This provision applies only to private
 22 investigators and not trainees."

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

24 **"§ 74C-5. Powers of the Board.**

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

27 ...
 28 (13) Conduct investigations regarding unlicensed activity and, with the
 29 concurrence of the Secretary of Public Safety, issue cease and desist letters.

30 (14) Acquire, hold, rent, encumber, alienate, and otherwise deal with real property
 31 in the same manner as a private person or corporation, subject only to approval
 32 of the Governor and the Council of State. Collateral pledged by the Board for
 33 an encumbrance is limited to the assets, income, and revenues of the Board.

34 (15) Adopt rules establishing standards for the use of any firearm or other weapon
 35 approved by the Board.

36 (16) Adopt and publish a code of professional conduct for licensees, registrants,
 37 certificate holders, or permit holders, the violation of which is grounds to
 38 suspend or revoke a license, registration, or permit pursuant to G.S. 74C-12."

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

40 **"§ 74C-7. Investigative powers of the Secretary of Public Safety.**

41 The Secretary of Public Safety for the State of North Carolina ~~shall have~~ has the power to
 42 investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing
 43 or violations of this Chapter involving ~~individuals licensed, unlicensed individuals, licensed~~
 44 ~~individuals, or individuals to be licensed, licensed~~ individuals, or individuals to be licensed under this Chapter. The Secretary shall retain
 45 the authority to enforce the provisions of this Chapter and impose any penalty authorized by
 46 G.S. 74C-12(a) and G.S. 74C-17 against any person or entity who is under investigation for or
 47 charged with a violation of this Chapter even if the person or entity's license or registration has
 48 been surrendered or has lapsed. Any investigation conducted pursuant to this section is
 49 confidential and is not subject to review under G.S. 132-1 until the investigation is complete and
 50 a report is presented to the Board. However, the report may be released to the licensee after the
 51 investigation is complete but before the report is presented to the Board."

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

2 "**§ 74C-8. License requirements.**

3 ...

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

9 ...

10 (3) In the event that the qualifying agent upon whom the business entity relies in
11 order to do business ceases to perform his duties as qualifying agent, the
12 business entity shall notify the Director within 10 working days. The business
13 entity must obtain a substitute qualifying agent within ~~30-90~~ days after the
14 original qualifying agent ceases to serve as qualifying agent unless the Board,
15 in its discretion, extends ~~this the 90-day period~~, for good cause, for ~~a period~~
16 ~~of time not to exceed three months~~ an additional 30 days upon the filing of a
17 petition by the business entity and upon a hearing by the Board. The Board
18 may require the payment of a late fee for a business entity failing to obtain a
19 substitute qualifying agent pursuant to the requirements of this subdivision.

20 (d) Criminal Record Check. – An applicant must meet all of the following requirements
21 and qualifications determined by a background investigation conducted by the Board in
22 accordance with G.S. 74C-8.1 and upon receipt of an application:

23 ...

24 (2) That the applicant is of good moral character and temperate habits. The
25 following shall be prima facie evidence that the applicant does not have good
26 moral character or temperate habits: conviction by any local, State, federal, or
27 military court of any crime involving the illegal use, carrying, or possession
28 of a ~~firearm; firearm or other deadly weapon;~~ conviction of any crime
29 involving the illegal use, possession, sale, manufacture, distribution, or
30 transportation of a controlled substance, drug, narcotic, or alcoholic beverage;
31 conviction of a crime involving ~~felonious~~ assault or an act of violence;
32 conviction of a crime involving unlawful breaking or entering, burglary,
33 larceny, or any offense involving moral turpitude; or a history of addiction to
34 alcohol or a narcotic drug; provided that, for purposes of this subsection,
35 "conviction" means and includes the entry of a plea of guilty or no contest or
36 a verdict rendered in open court by a judge or jury.

37 ...

38 (f) Issuance. – Upon a finding that the application is in proper form, the completion of
39 the background investigation, and the completion of an examination required by the Board, the
40 Director shall submit to the Board the application and the Director's recommendations. Upon
41 completion of the background investigation, the Director may issue a temporary license pending
42 approval of the application by the Board at the next regularly scheduled meeting. The Board shall
43 determine whether to approve or deny the application for a license. Upon approval by the Board,
44 a license will be issued to the applicant upon payment by the applicant of the initial license fee
45 and the required contribution to the Private Protective Services Education Fund, and filing of a
46 certificate of liability insurance with the Board. The applicant must pay the initial
47 license fee and make the required contribution to the Fund within 90 days from the date the
48 applicant receives notice of pending licensure approval unless the Board, in its discretion, extends
49 the 90-day period, for good cause, for an additional 30 days upon the filing of a petition by the
50 applicant and upon a hearing by the Board. The Board may require the payment of a late fee for

1 an applicant failing to pay the initial license fee or failing to make the contribution to the Fund
2 pursuant to the requirements of this subsection."

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

4 **"§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable; late**
5 **renewal fee.**

6 ...

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

8 ...

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

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

14 ...

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

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

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

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

27"

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

29 **"§ 74C-10. Certificate of liability insurance required; form and approval; suspension for**
30 **noncompliance.**

31 ...

32 (e) No security guard and patrol, armored car, or special limited guard and patrol license
33 shall be issued under this Chapter unless the applicant files with the Board evidence of a ~~policy~~
34 ~~of liability insurance.~~ liability insurance policy. The policy must provide for the following
35 minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury or death of one
36 person as a result of the negligent act or acts of the principal insured or his agents operating in
37 the course and scope of his employment; subject to said limit for one person, one hundred
38 thousand dollars (\$100,000) because of bodily injury or death of two or more persons as the result
39 of the negligent act or acts of the principal insured or his agents operating in the course and scope
40 of his or her agency; twenty thousand dollars (\$20,000) because of injury to or destruction of
41 property of others as the result of the negligent act or acts of the principal insured or his agents
42 operating in the course and scope of his or her agency. ~~If the licensee,~~ a licensee or a trainee
43 supervised by a licensee, other than a security guard and patrol, armored car, or special limited
44 guard and patrol licensee, carries a firearm while engaged in private protective services activities,
45 the licensee or trainee shall obtain a ~~policy of liability insurance~~ policy with a minimum coverage
46 as specified above. A licensee or trainee is deemed to be "carrying a firearm" for purposes of this
47 section while engaged in private protective services if the licensee or trainee has a firearm on the
48 licensee's or trainee's person or in the automobile the licensee or trainee is using to perform
49 private protective services. A licensee may provide coverage for a trainee under the licensee's
50 supervision; however, failure of the licensee to provide coverage does not exempt the trainee
51 from the requirements of this section.

1 (e) The Board shall approve the form, execution, and terms of the liability insurance
2 policy.

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

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

10"

11 **SECTION 7.** G.S. 74C-11 is amended by adding a new subsection to read:

12 "(g) Notwithstanding the provisions of this section, during a State of Disaster or State of
13 Emergency declared by the Governor of this State pursuant to Article 1 of Chapter 166A of the
14 General Statutes, a licensee may employ a person properly registered or licensed as an armed
15 security guard in another state provided the licensee, prior to deploying the armed security guard
16 in this State, submits to the Director the name, address, and Social Security number of the armed
17 security guard, the name of the state of current registration or licensing of the armed security
18 guard, proof of completion of the four-hour training course mandated by G.S. 74C-13(h)(1)a.
19 and 14B NCAC 16 .0807(c)(1), administered by a North Carolina certified trainer, qualification
20 by a North Carolina Private Protective Services Board certified firearms instructor based on the
21 firearm the armed security guard intends to carry, meeting the qualification requirements
22 approved by the Board and the Secretary of Public Safety for each firearm, and the Director
23 approves the employment of the armed security guard in this State. Qualification shall be valid
24 for a period of 12 months. The duration of the deployment of an armed security guard from
25 another state by a licensee shall not exceed the declared State of Emergency or Disaster."

26 **SECTION 8.** G.S. 74C-12 reads as rewritten:

27 "**§ 74C-12. Denial, suspension, or revocation of license, registration, or permit; duty to**
28 **report criminal arrests.**

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

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

36 ...

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

40 ...

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

43 ...

44 (24) Fraudulently held himself or herself out as employed by or licensed by the
45 ~~State Bureau of Investigation~~ Department of Public Safety or any other
46 governmental authority."

47 **SECTION 9.** G.S. 74C-13 reads as rewritten:

48 "**§ 74C-13. Armed licensee or registered employee required to have firearm registration**
49 **permit; firearms training.**

50 (a) It shall be unlawful for any person performing private protective services duties to
51 carry a firearm in the performance of those duties without first having met the qualifications of

1 this section and having been issued a firearm registration permit by the Board. A licensee or
 2 proprietary employer described in G.S. 74C-3(b)(13) shall register any individual carrying a
 3 firearm within 30 days of employment. Before engaging in any private protective services
 4 activity, the individual shall receive any required training prescribed by the ~~Board~~Board, unless
 5 specifically exempted from training by G.S. 74C-13.1.

6 ...

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

10 ...

11 (g) The Board may suspend, revoke, or deny a firearm registration permit if the holder or
 12 applicant has been convicted of any crime involving moral turpitude or any crime ~~involving the~~
 13 ~~illegal use, carrying, or possession of a deadly weapon set forth in G.S. 74C-8(d)~~ or for violation
 14 of this section or rules promulgated by the Board to implement this section. The Director may
 15 summarily suspend a firearm registration permit pending resolution of charges ~~involving the~~
 16 ~~illegal use, carrying, or possession of a firearm lodged against the holder of the permit, for any~~
 17 crime involving moral turpitude, any of the offenses set forth in G.S. 74C-12, or any crime set
 18 forth in G.S. 74C-8(d).

19 (h) The Board and the Secretary of Public Safety shall establish a firearms training
 20 program for licensees and registered employees to be conducted by agencies and institutions
 21 approved by the Board and the Secretary of Public Safety. The Board and the Secretary of Public
 22 Safety may approve training programs conducted by a contract security company and the security
 23 department of a proprietary security organization, if the contract security company or security
 24 department of a proprietary security organization offers the courses listed in subdivision (1) of
 25 this subsection and if the instructors of the training program are certified trainers approved by
 26 the Board and the Secretary of Public Safety:

27 (1) The basic training course approved by the Board and the Secretary of Public
 28 Safety shall consist of a minimum of four hours of ~~classroom~~-training which
 29 shall include all of the following:

- 30 a. Legal limitations on the use of ~~hand guns~~firearms and on the powers
 31 and authority of an armed security guard.
- 32 b. Familiarity with this section.
- 33 c. Range firing and procedure and ~~hand gun~~firearm safety and
 34 maintenance.

35 ...

36 (o) The Board shall not knowingly issue a firearm registration permit to an individual
 37 who is prohibited by federal or State law from possessing a firearm."

38 **SECTION 10.** Article 1 of Chapter 74C of the General Statutes is amended by adding
 39 a new section to read:

40 **"§ 74C-13.1. Exemption from firearms training requirements.**

41 (a) The following persons may be exempt from the firearms training requirements of
 42 G.S. 74C-13(b):

- 43 (1) Those who have successfully completed the North Carolina Basic Law
 44 Enforcement Training (BLET) and the first year of probationary employment.
- 45 (2) Persons who have retired either by years of service or by medical disability,
 46 or separated in good standing as a sworn law enforcement officer from a
 47 federal, state, county, or municipal law enforcement agency that included in
 48 their duty the use and qualification of a firearm. Retirement or separation must
 49 have occurred within three years of application.
- 50 (3) Military personnel who have been honorably discharged within three years of
 51 application and whose military occupational specialty (MOS) included

- 1 Military Police or Criminal Investigative Division (CID) within three years of
2 application.
- 3 (4) Employees of a nuclear power plant that are required to comply with 10 C.F.R.
4 § 73.55 Appendix B, "Training and Qualification of Security Personnel," as
5 supplemented by the United States Nuclear Regulatory Commission
6 Regulatory Guide 5.75.
- 7 (b) An applicant claiming one of the above exemptions from the 20-hour course of armed
8 guard instruction must provide the Board the following documentation, as appropriate:
- 9 (1) A copy of a North Carolina BLET training certificate and a letter from the
10 applicant's department verifying that the probationary employment period has
11 been completed.
- 12 (2) Retirement documentation not older than three years verifying sworn status,
13 or the card issued by the North Carolina Criminal Justice Training &
14 Standards Division authorizing concealed carry under the United States Law
15 Enforcement Officers' Safety Act of 2004.
- 16 (3) Documentation from a United States Department of Defense Form DD 214,
17 Form DD 215, or Form NGB 22 noting a Military Police or CID military
18 occupational specialty.
- 19 (4) Documentation of retirement or separation from a federal law enforcement
20 agency with a United States Office of Personnel Management job series of
21 1811.
- 22 (5) Documentation of current, direct employment with a nuclear power plant
23 located in North Carolina.
- 24 (c) The Board shall deny the exemption if the applicant fails to provide the
25 documentation, as applicable, set forth above.
- 26 (d) When utilizing this exemption, the applicant must qualify within the first three
27 attempts on the required firearm qualification course. If the applicant fails to qualify on both of
28 these required courses, the applicant shall be required to undergo the entire 20-hour course of
29 instruction.
- 30 (e) When utilizing this exemption, the applicant must complete the legal block of
31 instruction required by G.S. 74C-13(h)(1) and the Board's administrative rules."

32 **SECTION 11.** G.S. 74C-17 reads as rewritten:

33 **"§ 74C-17. Enforcement.**

34 ...

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

42 ...

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

45 **SECTION 12.** G.S. 74C-23 reads as rewritten:

46 **"§ 74C-23. Acquisition or change of ownership or control of licensed firm, association, or**
47 **corporation.**

48 In the event a company, firm, or corporation licensed under this Chapter transfers ownership,
49 control, or a majority of assets to another person, firm, association, or corporation, the person,
50 firm, association, or corporation acquiring control or ownership shall have the following
51 responsibilities:

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- ...
- (4) Provide to the Director ~~within 60-10~~ calendar days ~~from the~~ prior to the effective date of the transaction ~~the following:~~ a list of any licensee and any registrants affected by the transaction.
 - a. ~~A list of all registrants or licensees affected by the transaction.~~
 - b. ~~Written confirmation of completion of any changes necessary for the acquiring party to comply with the requirements of this Chapter or any applicable rules adopted by the Board on a form approved by the Director.~~
- (5) Provide to the Director within 60 calendar days from the effective date of the transaction written confirmation of completion of any changes necessary for the acquiring party to comply with the requirements of this Chapter or any applicable rules adopted by the Board on a form approved by the Director."

SECTION 13. G.S. 14-269.3 reads as rewritten:

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

- ...
- (b) This section shall not apply to any of the following:
 - ...
 - (4) A person registered ~~or hired~~ as a security guard as defined in G.S. 74C-3(b)(13) who is hired by the owner, lessee, or person or organization sponsoring the event, event or a person employed by a business licensed pursuant to G.S. 74C-2 who is hired by the owner, lessee, or person or organization sponsoring the event.

...."

SECTION 14. Section 1 of this act becomes effective July 1, 2020. The remainder of the act becomes effective July 1, 2019.