

# As Reported by the House Commerce and Labor Committee

124th General Assembly

Regular Session

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Sub. H. B. No. 188

REPRESENTATIVE Schaffer

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## A BILL

To amend sections 4749.01, 4749.04, and 4749.06 of the  
Revised Code to exempt commissioned peace officers  
from the licensing requirements concerning private  
investigators and security guards when acting as an  
employee or as an independent contractor for a  
person licensed as a private investigator, security  
guard, or both.

### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 4749.01, 4749.04, and 4749.06 of the  
Revised Code be amended to read as follows:

**Sec. 4749.01.** As used in this chapter:

(A) "Private investigator" means any person who engages in  
the business of private investigation.

(B) "Business of private investigation" means, except when  
performed by one excluded under division (H) of this section, the  
conducting, for hire, in person or through a partner or employees,  
of any investigation relevant to any crime or wrong done or  
threatened, or to obtain information on the identity, habits,  
conduct, movements, whereabouts, affiliations, transactions,  
reputation, credibility, or character of any person, or to locate  
and recover lost or stolen property, or to determine the cause of

or responsibility for any libel or slander, or any fire, accident,  
or damage to property, or to secure evidence for use in any  
legislative, administrative, or judicial investigation or  
proceeding.

(C) "Security guard provider" means any person who engages in  
the business of security services.

(D) "Business of security services" means either of the  
following:

(1) Furnishing, for hire, ~~watchmen~~ watchpersons, guards,  
private ~~patrolmen~~ patrol officers, or other persons whose primary  
duties are to protect persons or property;

(2) Furnishing, for hire, guard dogs, or armored motor  
vehicle security services, in connection with the protection of  
persons or property.

(E) "Class A license" means a license issued under section  
4749.03 of the Revised Code that qualifies the person issued the  
license to engage in the business of private investigation and the  
business of security services.

(F) "Class B license" means a license issued under section  
4749.03 of the Revised Code that qualifies the person issued the  
license to engage only in the business of private investigation.

(G) "Class C license" means a license issued under section  
4749.03 of the Revised Code that qualifies the person issued the  
license to engage only in the business of security services.

(H) "Private investigator," "business of private  
investigation," "security guard provider," and "business of  
security services" do not include:

(1) Public officers and employees whose official duties  
require them to engage in investigatory activities;

(2) Attorneys at law or any expert hired by an attorney at

law for consultation or litigation purposes; 51

(3) A consumer reporting agency, as defined in the "Fair 52  
Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as 53  
amended, provided that the consumer reporting agency is in 54  
compliance with the requirements of that act and that the agency's 55  
activities are confined to any of the following: 56

(a) The issuance of consumer credit reports; 57

(b) The conducting of limited background investigations that 58  
pertain only to a client's prospective tenant and that are engaged 59  
in with the prior written consent of the prospective tenant; 60

(c) The business of pre-employment background investigation. 61  
As used in division (H)(3)(c) of this section, "business of 62  
pre-employment background investigation" means, and is limited to, 63  
furnishing for hire, in person or through a partner or employees, 64  
the conducting of limited background investigations, in-person 65  
interviews, telephone interviews, or written inquiries that 66  
pertain only to a client's prospective employee and the employee's 67  
employment and that are engaged in with the prior written consent 68  
of the prospective employee. 69

(4) Certified public insurance adjusters that hold a 70  
certificate of authority issued pursuant to sections 3951.01 to 71  
3951.09 of the Revised Code, while the adjuster is investigating 72  
the cause of or responsibility for a fire, accident, or other 73  
damage to property with respect to a claim or claims for loss or 74  
damage under a policy of insurance covering real or personal 75  
property; 76

(5) Personnel placement services ~~licensed under Chapter 4143-~~ 77  
~~of the Revised Code~~ and persons who act as employees of such 78  
entities engaged in investigating matters related to personnel 79  
placement activities; 80

(6) An employee in the regular course of the employee's 81

employment, engaged in investigating matters pertinent to the  
business of ~~his or her~~ the employee's employer or protecting  
property in the possession of ~~his or her~~ the employee's employer,  
provided the employer is deducting all applicable state and  
federal employment taxes on behalf of the employee and neither the  
employer nor the employee is employed by, associated with, or  
acting for or on behalf of any private investigator or security  
guard provider;

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(7) Any better business bureau or similar organization or any  
of its employees while engaged in the maintenance of the quality  
of business activities relating to consumer sales and services;

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(8) An accountant who is registered or certified under  
Chapter 4701. of the Revised Code or any of the accountant's  
employees while engaged in activities for which the accountant is  
certified or registered;

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(9) Any person who, for hire or otherwise, conducts  
genealogical research in this state.

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As used in division (H)(9) of this section, "genealogical  
research" means the determination of the origins and descent of  
families, including the identification of individuals, their  
family relationships, and the biographical details of their lives.  
"Genealogical research" does not include furnishing for hire  
services for locating missing persons or natural or birth parents  
or children.

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(10) Any person residing in this state who conducts research  
for the purpose of locating the last known owner of unclaimed  
funds, provided that the person is in compliance with Chapter 169.  
of the Revised Code and rules adopted thereunder. The exemption  
set forth in division (H)(10) of this section applies only to the  
extent that the person is conducting research for the purpose of

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locating the last known owner of unclaimed funds. 113

As used in division (H)(10) of this section, "owner" and 114  
"unclaimed funds" have the same meanings as in section 169.01 of 115  
the Revised Code. 116

(11) A professional engineer who is registered under Chapter 117  
4733. of the Revised Code or any of his employees. 118

As used in division (H)(11) of this section and 119  
notwithstanding division (I) of this section, "employee" has the 120  
same meaning as in section 4101.01 of the Revised Code. 121

(12) Any person residing in this state who, for hire or 122  
otherwise, conducts research for the purpose of locating persons 123  
to whom the state of Ohio owes money in the form of warrants, as 124  
defined in division (S) of section 131.01 of the Revised Code, 125  
that the state voided but subsequently reissues. 126

(13) An independent insurance adjuster who, as an individual, 127  
an independent contractor, an employee of an independent 128  
contractor, adjustment bureau association, corporation, insurer, 129  
partnership, local recording agent, managing general agent, or 130  
self-insurer, engages in the business of independent insurance 131  
adjustment, or any person who supervises the handling of claims 132  
except while acting as an employee of an insurer licensed in this 133  
state while handling claims pertaining to specific policies 134  
written by that insurer. 135

As used in division (H)(13) of this section, "independent 136  
insurance adjustment" means conducting investigations to determine 137  
the cause of or circumstances concerning a fire, accident, bodily 138  
injury, or damage to real or personal property; determining the 139  
extent of damage of that fire, accident, injury, or property 140  
damage; securing evidence for use in a legislative, 141  
administrative, or judicial investigation or proceeding, adjusting 142  
losses; and adjusting or settling claims, including the 143

investigation, adjustment, denial, establishment of damages, 144  
negotiation, settlement, or payment of claims in connection with 145  
insurance contractors, self-insured programs, or other similar 146  
insurance programs. "Independent adjuster" does not include either 147  
of the following: 148

(a) An attorney who adjusts insurance losses ~~incidental~~ 149  
incidental to the practice of law and who does not advertise or 150  
represent that ~~he or she~~ the attorney is an independent insurance 151  
adjuster; 152

(b) A licensed agent or general agent of an insurer licensed 153  
in this state who processes undisputed or uncontested losses for 154  
insurers under policies issued by that agent or general agent. 155

(14) Except for a commissioned peace officer who engages in 156  
the business of private investigation or compensates others who 157  
engage in the business of private investigation or the business of 158  
security services or both, any commissioned peace officer as 159  
defined in division (B) of section 2935.01 of the Revised Code. 160

(I) "Employee" means every person who may be required or 161  
directed by any employer, in consideration of direct or indirect 162  
gain or profit, to engage in any employment, or to go, or work, or 163  
be at any time in any place of employment, provided that the 164  
employer of the employee deducts all applicable state and federal 165  
employment taxes on behalf of the employee. 166

**Sec. 4749.04.** (A) The director of commerce may revoke, 167  
suspend, or refuse to renew, when a renewal form has been 168  
submitted, the license of any private investigator or security 169  
guard provider, or the registration of any employee of a private 170  
investigator or security guard provider, for any of the following: 171

(1) Violation of any of the provisions of division (B) or (C) 172  
of section 4749.13 of the Revised Code; 173

(2) Conviction of a felony or a crime involving moral turpitude;	174 175
(3) Violation of any rule of the director governing private investigators, the business of private investigation, security guard providers, or the business of security services;	176 177 178
(4) Testifying falsely under oath, or suborning perjury, in any judicial proceeding;	179 180
(5) Failure to satisfy the requirements specified in division (D) of section 4749.03 of the Revised Code.	181 182
Any person whose license or registration is revoked, suspended, or not renewed <u>when a renewal form is submitted</u> may appeal in accordance with Chapter 119. of the Revised Code.	183 184 185
(B) In lieu of suspending, revoking, or refusing to renew the class A, B, or C license, or of suspending, revoking, or refusing to renew the registration of an employee of a class A, B, or C licensee, the director of commerce may impose a civil penalty of <del>not less than one hundred dollars or more than two</del> <u>one</u> hundred dollars for each <u>calendar</u> day of a violation of any of the provisions of <u>this section or of</u> division (B) or (C) of section 4749.13 of the Revised Code or of a violation of any rule of the director governing private investigators, the business of private investigation, security guard providers, or the business of security services.	186 187 188 189 190 191 192 193 194 195 196
<b>Sec. 4749.06.</b> (A) Each class A, B, or C licensee shall register <del>his</del> <u>the licensee's</u> investigator or security guard employees, with the department of commerce, which shall maintain a record of each licensee and registered employee and make it available, upon request, to any law enforcement agency. The class A, B, or C licensee shall file an application to register a new employee no sooner than three days nor later than seven <u>calendar</u>	197 198 199 200 201 202 203

days after the date on which the employee is hired. 204

(B)(1) Each employee's registration application shall be 205  
accompanied by one complete set of ~~his~~ the employee's 206  
fingerprints, one recent photograph of the employee, ~~his~~ the 207  
employee's physical description, and an eighteen-dollar 208  
registration fee. 209

(2) If the director requests the bureau of criminal 210  
identification and investigation to conduct an investigation of a 211  
licensee's employee and if the bureau assesses the director a fee 212  
for the investigation, the director, in addition to any other fee 213  
assessed pursuant to this chapter, may assess the licensee a fee 214  
that is equal to the fee assessed by the bureau. If, after 215  
investigation, the bureau finds that the employee has not been 216  
convicted of a felony within the last twenty years, the director 217  
shall issue to the employee an identification card bearing the 218  
license number and signature of the licensee, which in the case of 219  
a corporation shall be the signature of its president or its 220  
qualifying agent, and containing the employee's name, address, 221  
age, physical description, and right thumb print or other 222  
identifying mark as the director prescribes, a recent photograph 223  
of the employee, and ~~his~~ the employee's signature. The director 224  
may issue a duplicate of a lost, spoliated, or destroyed 225  
identification card issued under this section, upon payment of a 226  
fee fixed by the director, not exceeding five dollars. 227

(C) ~~No~~ Except as provided in division (E) of this section, no 228  
class A, B, or C licensee shall permit an employee, other than an 229  
individual who qualified a corporation for licensure, to engage in 230  
the business of private investigation, the business of security 231  
services, or both businesses until the employee receives an 232  
identification card from the department, except that pending the 233  
issuance of an identification card, a class A, B, or C licensee 234  
may offer for hire security guard or investigator employees 235



provided the licensee obtains a waiver from the person who 236  
receives, for hire, security guard or investigative services, 237  
acknowledging that the person is aware the employees have not 238  
completed their registration and agreeing to their employment. 239

(D) If a class A, B, or C licensee, or a registered employee 240  
of a class A, B, or C licensee, intends to carry a firearm, as 241  
defined in section 2923.11 of the Revised Code, in the course of 242  
engaging in the business or employment, ~~he either~~ the licensee or 243  
registered employee shall satisfactorily complete a firearms basic 244  
training program that includes twenty hours of handgun training 245  
and five hours of training in the use of other firearms, if any 246  
other firearm is to be used, or equivalency training, if 247  
authorized, or shall be a former peace officer who previously had 248  
successfully completed a firearms training course, shall receive a 249  
certificate of satisfactory completion of that program or written 250  
evidence of approval of the equivalency training, shall file an 251  
application for registration, shall receive a firearm-bearer 252  
notation on ~~his~~ the licensee's or registered employee's 253  
identification card, and shall annually requalify on a firearms 254  
range, all as described in division (A) of section 4749.10 of the 255  
Revised Code. A private investigator, security guard provider, or 256  
employee is authorized to carry a firearm only in accordance with 257  
that division. 258

(E) This section does not apply to commissioned peace 259  
officers, as defined in division (B) of section 2935.01 of the 260  
Revised Code, working for, either as an employee or independent 261  
contractor, a class A, B, or C licensee. For purposes of this 262  
chapter, a commissioned peace officer is an employee exempt from 263  
registration. 264

**Section 2.** That existing sections 4749.01, 4749.04, and 265  
4749.06 of the Revised Code are hereby repealed. 266

**Section 3.** Section 4749.01 of the Revised Code is presented 267  
in this act as a composite of the section as amended by both Am. 268  
Sub. S.B. 162 and Am. H.B. 229 of the 121st General Assembly. The 269  
General Assembly, applying the principle stated in division (B) of 270  
section 1.52 of the Revised Code that amendments are to be 271  
harmonized if reasonably capable of simultaneous operation, finds 272  
that the composites are the resulting versions of the sections in 273  
effect prior to the effective date of the sections as presented in 274  
this act. 275