

As Reported by the Senate Judiciary--Civil Justice Committee

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REPRESENTATIVES Schaffer, Grendell, Williams, Rhine, Flowers, Strahorn,
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A B I L L

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

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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;

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- (2) Attorneys at law or any expert hired by an attorney at law for consultation or litigation purposes;
- (3) A consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended, provided that the consumer reporting agency is in compliance with the requirements of that act and that the agency's activities are confined to any of the following:
- (a) The issuance of consumer credit reports;
 - (b) The conducting of limited background investigations that pertain only to a client's prospective tenant and that are engaged in with the prior written consent of the prospective tenant;
 - (c) The business of pre-employment background investigation. As used in division (H)(3)(c) of this section, "business of pre-employment background investigation" means, and is limited to, furnishing for hire, in person or through a partner or employees, the conducting of limited background investigations, in-person interviews, telephone interviews, or written inquiries that pertain only to a client's prospective employee and the employee's employment and that are engaged in with the prior written consent of the prospective employee.
- (4) Certified public insurance adjusters that hold a certificate of authority issued pursuant to sections 3951.01 to 3951.09 of the Revised Code, while the adjuster is investigating the cause of or responsibility for a fire, accident, or other damage to property with respect to a claim or claims for loss or damage under a policy of insurance covering real or personal property;
- (5) Personnel placement services ~~licensed under Chapter 4143. of the Revised Code~~ and persons who act as employees of such entities engaged in investigating matters related to personnel placement activities;

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

(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;

(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;

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

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.

(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

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extent that the person is conducting research for the purpose of
locating the last known owner of unclaimed funds.

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

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

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

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

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

As used in division (H)(13) of this section, "independent
insurance adjustment" means conducting investigations to determine
the cause of or circumstances concerning a fire, accident, bodily
injury, or damage to real or personal property; determining the
extent of damage of that fire, accident, injury, or property
damage; securing evidence for use in a legislative,
administrative, or judicial investigation or proceeding, adjusting

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losses; and adjusting or settling claims, including the
investigation, adjustment, denial, establishment of damages,
negotiation, settlement, or payment of claims in connection with
insurance contractors, self-insured programs, or other similar
insurance programs. "Independent adjuster" does not include either
of the following:

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

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

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

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

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

(1) Violation of any of the provisions of division (B) or (C)

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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 not less than one hundred dollars or more than two <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
Sec. 4749.06. (A) Each class A, B, or C licensee shall register his <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	197 198 199 200 201 202

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employee no sooner than three days nor later than seven calendar 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

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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 composite is the resulting version of the section in 273
effect prior to the effective date of the section as presented in 274
this act. 275