

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 38. OPERATORS OF PRIVATE DETECTIVE BUSINESSES AND
PRIVATE SECURITY BUSINESSES

§ 43-38-1. Short title

This chapter shall be known and may be cited as the "Georgia Private Detective and Security Agencies Act."

HISTORY: Ga. L. 1973, p. 40, § 1; Ga. L. 1981, p. 1828, § 1.

§ 43-38-2. Declaration of purpose

This chapter is enacted for the purpose of safeguarding the citizens of this state by regulation of the private detective and private security businesses. The regulation of such businesses is declared to be in the public interest; and this chapter shall be liberally construed so as to accomplish the foregoing purpose.

HISTORY: Ga. L. 1981, p. 1828, § 1.

§ 43-38-3. Definitions

As used in this chapter, the term:

(1) "Board" means the Georgia Board of Private Detective and Security Agencies, a professional licensing board.

(2) "Law enforcement agency" means an agency responsible for ensuring compliance with the laws and ordinances enacted by federal, state, and local governing authorities.

(3) "Private detective business" means the business of obtaining or furnishing, or accepting employment to obtain or to furnish, information with reference to:

(A) Crimes or wrongs done or threatened against the United States of America or any state or territory thereof;

(B) The background, identity, habits, conduct, business, employment, occupation, assets, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(C) The location, disposition, or recovery of lost or stolen property;

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

(E) The securing of evidence in the course of the private detective business to be used before any court, board, officer, or investigating committee; or

(F) The protection of individuals from serious bodily harm or death.

(4) "Private security business" means engaging in the business of, or accepting employment to provide, any or all of the following:

(A) Private patrol service;

(B) Watchman service;

(C) Guard service;

(D) Armored car service; or

(E) The protection of persons from death or serious bodily harm.

HISTORY: Ga. L. 1973, p. 40, § 2; Ga. L. 1981, p. 1828, § 2; Ga. L. 2000, p. 1161, § 1; Ga. L. 2000, p. 1706, § 15.

§ 43-38-4. Creation of board; members; secretary; records; general powers and duties

(a) There is created the Georgia Board of Private Detective and Security Agencies. The board shall consist of seven members, each of whom shall be appointed by the Governor. Each member shall serve for a term of four years. Four members shall be engaged in the contract private detective or contract private security business and shall have at least four years of experience in such business immediately preceding their appointment; provided, however, that on and after October 1, 1987, at least two members shall be engaged in the contract private security business. Two members shall be engaged in state, county, or municipal law enforcement and shall have at least four years of experience in governmental law enforcement immediately preceding their appointment. One member shall be appointed from the public at large. At the first meeting of the board held each year, the members shall elect a chairman to serve for one year. The Governor may remove any member of the board for neglect of duty, incompetence, or other unethical or dishonorable conduct. After such removal or after the creation of a vacancy due to death, resignation, or ineligibility, the Governor shall appoint a successor to serve the unexpired term. Appointees to the board shall, immediately after their appointment, take and subscribe to a written oath or affirmation required by law for all public officers.

(b) The members of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

(c) The division director shall be the secretary of the board and shall perform such administrative duties as may be prescribed by the board. All official records of the board or affidavits by the division director as to the content of such records shall be prima-facie

evidence of all matters required to be kept therein.

(d) In addition to any authority otherwise granted by this chapter and subject to the laws relating to the division director, the board shall have the following powers and duties:

(1) To determine the qualifications of applicants for licenses or registration under this chapter;

(2) To investigate alleged violations of this chapter or any rules and regulations adopted by the board, including the power to conduct inspections of a licensee's employee lists and training records;

(3) To promulgate all rules and regulations necessary to carry out this chapter;

(4) To establish and enforce standards governing the conduct of persons licensed and registered under this chapter;

(5) To maintain in its name an action for injunctive or other appropriate legal or equitable relief to remedy violations of this chapter. In pursuing equitable remedies, it shall not be necessary that the board allege or prove that it has no adequate remedy at law. It is declared that violations of this chapter are a menace and a nuisance and are dangerous to the public health, safety, and welfare;

(6) To recommend to the division director the employment or appointment of such personnel, including, but not limited to, inspectors, as may be necessary to assist the board in exercising and performing any and all the powers, duties, and obligations set forth in this chapter;

(7) To require a licensee to maintain and keep such records as are subject to inspection under this chapter;

(8) To issue, renew, deny, suspend, or revoke licenses, certificates, registrations, or permits in a manner consistent with this chapter;

(9) To hold hearings on all matters properly brought before it and, in connection therewith, to administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings; and

(10) To develop and apply such techniques which may include examinations as may be deemed necessary to assure that applicants licensed, registered, or issued weapons permits have the requisite skills and qualifications.

HISTORY: Ga. L. 1973, p. 40, § 3; Ga. L. 1981, p. 1828, § 3; Ga. L. 1987, p. 1400, § 1; Ga. L. 1994, p. 97, § 43; Ga. L. 2000, p. 1706, § 19.

§ 43-38-5. Licensure and registration of persons practicing for one year on July 1, 1981

Reserved. Repealed by Ga. L. 1987, p. 1400, § 2, effective July 1, 1987.

§ 43-38-6. Licenses; qualifications; criminal records; fingerprints; bond, insurance, or net worth affidavit; display of license; suspension; temporary permits; license recognition agreements

(a) Any individual, firm, association, company, partnership, limited liability company, or corporation desiring to engage in the private detective or private security business in this state shall make a verified application in writing to the division director for a license therefor. If the applicant is a firm, association, company, partnership, limited liability company, or corporation, the person filing the application on behalf of such firm, association, company, partnership, limited liability company, or corporation shall be a corporate officer of such corporation or an officer of such firm, association, partnership, or limited liability company; and such individual shall meet the qualifications set out in this Code section.

(b) Upon being satisfied of the good character, competency, and integrity of an applicant for licensure under this chapter or, if the applicant is a firm, association, company, partnership, limited liability company, or corporation, upon being satisfied of the good character, competency, and integrity of the corporate officer of such corporation or officer of such firm, association, partnership, or limited liability company, the board may grant a license to conduct a private detective or private security business to such individual, firm, association, company, partnership, limited liability company, or corporation if:

(1) The applicant is at least 18 years of age;

(2) The applicant is a citizen of the United States or a registered resident alien;

(3) The applicant is of good moral character;

(4) The applicant has not been convicted of a felony or any crime involving the illegal use, carrying, or possession of a dangerous weapon or any crime involving moral turpitude; provided, however, that, if the applicant has been convicted of such crime, or has entered a plea of nolo contendere, or has entered a plea pursuant to Article 3 of Chapter 8 of Title 42 or otherwise been granted first offender treatment, the board may inquire into the nature of the crime, the date of conviction or plea, and other underlying facts and circumstances surrounding such criminal proceedings and, in its discretion, may grant a license to such applicant;

(5) The applicant has not committed an act constituting dishonesty or fraud;

(6) The applicant has satisfied the board that his or her private detective or private security business has a competent training officer and adequate training program with a curriculum approved by the board or that adequate training will be obtained from such other source as the board may approve;

(7) The applicant for a private detective company license has had at least two years' experience as an agent registered with a licensed detective agency, or has had at least two years' experience in law enforcement, or has a four-year degree in criminal justice or a related field from an accredited university or college; and the applicant for a security company license has had at least two years' experience as a supervisor or administrator in in-house security operations or with a licensed security agency, or has had at least two years' experience in law enforcement, or has a four-year degree in criminal justice or a related field from an accredited university or college;

(8) The applicants for private detective company licenses and security company licenses may be required to pass successfully a written examination as the board may prescribe; and

(9) The applicant meets such other qualifications as the board may prescribe by rule.

(c) The application for a license shall be made in writing, under oath, on a form to be furnished by the division director. The application shall state the applicant's full name, age, date and place of birth; residences and employment within the past five years, with the names and addresses of employers; present occupation; date and place of conviction or arrest for any crime, including the plea of nolo contendere or a plea entered pursuant to Article 3 of Chapter 8 of Title 42 or other first offender treatment; and such additional information as the board may require to investigate the qualifications, character, competency, and integrity of the applicant. Each applicant shall submit with the application two complete sets of fingerprints on forms specified and furnished by the board and one photograph, two inches wide by three inches high, full face, taken within six months prior to the application; provided, however, that the board may waive the submission of fingerprints and photograph for any employee who has been employed by a person licensed under this chapter within the previous 12 months. The application shall contain such additional documentation as the board may prescribe by rule. The board shall have the discretion to deny a license to an applicant who fails to provide the information and supporting documentation required by this subsection.

(d)(1) In addition to the requirements enumerated in this Code section, each applicant for a license under this chapter shall provide satisfactory evidence to the board that the prospective licensee has posted or has made provision for the posting of a bond. The required bond shall be executed in favor of the state, in the amount of \$25,000.00, with a surety company authorized to do business in this state and conditioned to pay damages not to exceed the amount of such bond to any person aggrieved by any act of the principal named in such bond, which act is in violation of this chapter and would be grounds for denial, suspension, or revocation of a license under Code Section 43-38-11. Immediately upon the granting of a license, such bond shall be filed with the division director by the licensee and shall be approved by the division director as to form and as to

the solvency of the surety. The prospective licensee may file the required bond with the division director prior to the granting of a license for the division director's approval as provided in this Code section. In lieu of the required bond, a prospective licensee may submit to the board evidence of a policy of liability insurance in an amount of not less than \$1 million insuring such prospective licensee against personal liability for damages arising out of acts of the insured or his employees. No licensee shall cancel or cause to be canceled a bond or liability insurance policy issued pursuant to this Code section unless the board is so informed in writing by certified mail or statutory overnight delivery at least 30 days prior to the proposed cancellation. In lieu of the required bond or liability insurance policy, the prospective licensee may submit a net worth affidavit, prepared using standard accounting procedures, which affidavit indicates that the prospective licensee has a net worth of more than \$50,000.00. The board, in its discretion, may accept a financial affidavit in lieu of the bond or liability insurance policy required by this subsection. The board, in its discretion, may require licensees under this Code section to submit periodic financial updates to ensure continued financial responsibility. If the surety or licensee fails to submit, within ten days of the effective date of cancellation, a new bond or liability insurance policy or a net worth statement as outlined in this subsection, the board shall have the authority to revoke any license issued under this chapter.

(2) Licensees who have previously posted bonds or submitted net worth affidavits to comply with the provisions of this subsection may hereafter prove continued financial responsibility through the use of liability insurance policies in accordance with paragraph (1) of this subsection.

(e) Immediately upon receipt of a license certificate issued by the board pursuant to this chapter, the licensee shall post and at all times display such license in a conspicuous place at his place of business. A copy of the duplicate of the license certificate shall be conspicuously posted at each branch office.

(f) Notwithstanding any other provisions of this Code section, an applicant for a license shall agree in writing on the application that if such applicant makes a false statement in the application or if such applicant has been found to have been convicted of a felony and has not had all his or her civil rights restored pursuant to law, then the board shall be authorized to suspend any license granted to such applicant without a prior hearing as required in Code Section 43-38-11. Upon request, any such person shall be entitled to a hearing on such matter subsequent to the suspension.

(g) The board may grant a license provided in this Code section to a person who is licensed in another state or territory of the United States which has licensing requirements substantially similar to the licensing requirements provided in this Code section.

(h) The board may issue a temporary permit for not longer than 30 days to any person who is licensed in another state or territory of the United States which has licensing requirements substantially similar to the licensing requirements provided in this Code

section if such person, in the course of an investigation which arose in the state in which he or she is licensed, finds it necessary to conduct an investigation in this state. Such temporary permit shall be limited to the scope of such investigation. No more than one temporary permit shall be issued in any 12 month period.

(i) The board may, in its discretion and in accordance with regulations adopted by the board, enter into limited license recognition agreements with any other state or the District of Columbia having licensure requirements substantially equal to the requirements provided by this chapter pursuant to which a person so licensed in such state or district may conduct an investigation in this state directly related to an investigation which was initiated outside of this state; provided, however, that such privilege shall be limited to 30 days for each agency for each such investigation.

HISTORY: Ga. L. 1973, p. 40, §§ 5-7; Ga. L. 1981, p. 1828, § 5; Ga. L. 1984, p. 1338, § 1; Ga. L. 1986, p. 751, § 2; Ga. L. 1987, p. 3, § 43; Ga. L. 1987, p. 1400, §§ 3-5; Ga. L. 1988, p. 13, § 43; Ga. L. 1991, p. 1027, § 1; Ga. L. 1993, p. 123, § 43; Ga. L. 1994, p. 291, § 1; Ga. L. 2000, p. 1161, §§ 2, 3; Ga. L. 2000, p. 1589, § 3; Ga. L. 2000, p. 1706, § 19; Ga. L. 2001, p. 1075, § 1.

§ 43-38-7. Licensing of armed employees; qualifications; continuing education; fingerprints; license card; suspension

(a) Any employer may employ as many agents, guards, watchmen, or patrolmen as he or she deems necessary for the conduct of his or her business, provided that such employees meet the requirements and qualifications for licensure under this chapter.

(b) (1) Except as provided in paragraph (2) of this subsection, within 180 days of completing board mandated prelicensure training, potential licensees shall make application to be licensed with the board.

(2) Any guard, watchman, or patrolman who will be unarmed and who will be employed in the private security business shall not be required to be licensed by the board but shall be governed by Code Section 43-38-7.1.

(c) (1) Except as otherwise provided in paragraph (2) of subsection (b) of this Code section, upon being satisfied of the applicant's character, competency, and eligibility for licensure, the board may license such applicant if he or she:

(A) Is at least 18 years of age;

(B) Is a citizen of the United States or a registered resident alien;

(C) Is of good moral character;

(D) Has not been convicted of a felony or any crime involving the illegal use, carrying, or possession of a dangerous weapon or any crime involving moral turpitude; provided, however, that, if the applicant has been convicted of such crime, or has entered

a plea of nolo contendere to such crime, or has entered a plea pursuant to Article 3 of Chapter 8 of Title 42 or otherwise been granted first offender treatment, the board may inquire into the nature of the crime, the date of conviction or plea, and other underlying facts and circumstances surrounding such criminal proceedings and, in its discretion, may allow the applicant to be licensed;

(E) Has not committed an act constituting dishonesty or fraud; and

(F) Meets such other qualifications as the board may prescribe by rule.

(2) The board shall be authorized to require continuing education as a condition of renewal for all persons required to be licensed or registered with the board under this chapter. The board shall be authorized to promulgate rules and regulations addressing the requirement for continuing education and circumstances for which a waiver of this requirement may be granted.

(d) The license application shall be made under oath, and on a form to be furnished by the division director. The application shall state the applicant's full name, age, and date and place of birth; residences and employment within the past five years; experience in the position applied for or held; the date and place of conviction or arrest for any crime, including the entry of a plea of nolo contendere or the entry of a plea entered pursuant to Article 3 of Chapter 8 of Title 42 or other first offender treatment; and such other information as the board may require. The license application shall be accompanied by two sets of fingerprints of the applicant and one photograph of the applicant, two inches wide by three inches high, full face, and taken within six months prior to the application. The board shall have discretion to deny a license to any individual when the information and supporting documentation required by this subsection are not provided.

(e) Upon granting a license pursuant to this Code section, the board shall so notify the licensee. An employer shall notify the board within 30 days of the hiring or termination of employment of any employee licensed under this Code section.

(f) Upon receipt of a license card issued by the board pursuant to this chapter, the licensee shall maintain said card on his person at all times while on his post or at his place of employment and at all times when the licensee wears a uniform in the course of his employment in the private detective or private security business.

(g) Notwithstanding any other provisions of this Code section, any person who is to be licensed under this Code section shall agree that if such person makes a false statement in the application or if such person is found to have been convicted of a felony and has not had all his or her civil rights restored pursuant to law, then the board shall be authorized to suspend any license granted to such person without a prior hearing as required in Code Section 43-38-11. Upon request, any such person shall be entitled to a hearing on such matter subsequent to the suspension.

HISTORY: Ga. L. 1973, p. 40, § 8; Ga. L. 1981, p. 1828, § 6; Ga. L. 1987, p. 1400, § 6; Ga. L. 1988, p. 13,

§ 43; Ga. L. 2000, p. 1161, § 4; Ga. L. 2000, p. 1706, § 19; Ga. L. 2005, p. 787, § 1/HB 17; Ga. L. 2008, p. 324, § 43/SB 455; Ga. L. 2010, p. 266, § 40/SB 195; Ga. L. 2010, p. 391, § 2/SB 162.

§ 43-38-7.1. Registration records of unarmed security employees; fingerprint identification of prospective registrants

(a) Any individual, firm, association, company, partnership, limited liability company, or corporation engaged in the private security business and licensed pursuant to Code Section 43-38-6 shall be required to maintain registration records of all guards, watchmen, or patrolmen who are unarmed pursuant to rules and regulations of the board. A licensee shall not be required to register such unarmed employees with the board. Unarmed employees shall be required to complete a certain number of hours of training as prescribed by the board, and a record of such training shall be maintained with the registration records of such employees.

(b) The licensee shall forward fingerprints received from each prospective registrant to the Georgia Crime Information Center of the Georgia Bureau of Investigation for the purpose of criminal identification through the fingerprint system of identification established by the Georgia Bureau of Investigation and the fingerprint system of investigation established by the Federal Bureau of Investigation.

(c) It shall be the duty of the licensee to keep a record of all information received from the Georgia Bureau of Investigation and the Federal Bureau of Investigation with respect to criminal identification and to cooperate with the Georgia Bureau of Investigation, similar departments in other states, and the United States Department of Justice in any criminal identification system.

(d) At such times as the board may require, fingerprint cards of registrants may be periodically reprocessed by a licensee to identify criminal convictions subsequent to registration.

HISTORY: Code 1981, § 43-38-7.1, enacted by Ga. L. 1987, p. 1400, § 7; Ga. L. 1993, p. 123, § 44.

§ 43-38-8. Temporary employees

Notwithstanding any other provisions of this chapter, any person or corporation may use temporary employees for special events, provided that such temporary employment does not exceed 30 days in a calendar year and such employees do not carry firearms in connection with such employment.

HISTORY: Ga. L. 1973, p. 40, § 9; Ga. L. 1981, p. 1828, § 7A; Ga. L. 1987, p. 1400, § 8.

§ 43-38-9. Disposition of applicants' fingerprints

(a) The board shall forward the necessary fingerprints received from each prospective

licensee and registrant required to be licensed or registered by the board under this chapter to the Georgia Crime Information Center or the Georgia Bureau of Investigation for the purpose of criminal identification through the fingerprint system of identification established by such bureau and the fingerprint system of investigation established by the Federal Bureau of Investigation.

(b) It shall be the duty of the division director to keep a record of all information received from the Georgia Bureau of Investigation and the Federal Bureau of Investigation with respect to criminal identification and to cooperate with the Georgia Bureau of Investigation, similar departments in other states, and the United States Department of Justice in any criminal identification system.

(c) At such times as the board may require, fingerprint cards of licensees and registrants may be periodically reprocessed to identify criminal convictions subsequent to licensure or registration.

HISTORY: Ga. L. 1973, p. 40, § 11; Ga. L. 1981, p. 1828, § 8; Ga. L. 1984, p. 1338, § 2; Ga. L. 1987, p. 1400, § 9; Ga. L. 2000, p. 1706, § 19.

§ 43-38-10. Permits to carry firearms; proficiency requirement; exemption from specified laws; denial, refusal to renew, and suspension of permits; effect of license suspension and restoration

(a) The board may grant a permit to carry a pistol, revolver, or other firearm to any person who is at least 21 years of age and who is licensed or registered in accordance with this chapter and who meets the qualifications and training requirements set forth in this Code section and such other qualifications and training requirements as the board by rule may establish. The board shall have the authority to establish limits on type and caliber of such weapons by rule. Application for such permit and for renewal thereof shall be made on forms provided by the division director. No weapons permit issued under this Code section shall be transferable to another individual.

(b) No permit under this Code section shall be issued or renewed until the applicant has presented proof to the board that he is proficient in the use of firearms. The board shall have the authority to require periodic recertification of proficiency in the use of firearms and to refuse to renew a permit upon failure to comply with such requirement. The applicant shall present proof to the board that:

(1) He has demonstrated on the firearms range proficiency in the use of firearms by meeting such minimum qualifications on pistol and shotgun (if so armed) courses as the board may prescribe by rule; and

(2) He has received such other training and instruction in the use of firearms as the board may require by rule.

(c) All licensees and registrants under this chapter shall be required to obtain from the board a weapons permit under this Code section if a firearm is carried, or is to be carried,

by such licensee or registrant while at or en route directly to and from his post or place of employment.

(d) Any licensee or registrant under this chapter meeting the qualifications and training requirements set out in this Code section may be issued an exposed weapons permit in accordance with this Code section and shall be authorized to carry such firearm in an open and fully exposed manner. Such carrying of a firearm shall be limited to the time the licensee or registrant is on duty or en route directly to and from his post or place of employment. No stopover en route to and from such post or place of employment is permitted under the terms of this Code section.

(e) Licensees or registrants under this chapter may apply to the board for a concealed weapons permit. Qualifications and training requirements for such permits and restrictions on such permits shall be established by appropriate rules of the board. The board shall, in its discretion, consider and approve each application for a concealed weapons permit on an individual basis.

(f) An individual issued a permit in accordance with this Code section shall be exempt from the following laws of this state:

(1) Code Section 16-11-126, relating to carrying a concealed weapon;

(2) Code Section 16-11-127, relating to carrying deadly weapons at public gatherings;

(3) Code Section 16-11-128, relating to carrying a pistol without a license; and

(4) Code Section 16-11-129, relating to licenses to carry pistols and revolvers generally.

(g) The board shall have the power to deny a weapons permit to any applicant who fails to provide the information and supporting documentation required by this Code section or to refuse to renew a permit upon failure to comply with such weapons proficiency recertification requirements as the board may prescribe.

(h) The board shall have the authority to order the summary suspension of any weapons permit issued under this Code section, pending proceedings for revocation or other sanction, upon finding that the public health, safety, or welfare imperatively requires such emergency action, which finding shall be incorporated in its order.

(i) The board shall have the same power and authority to deny and sanction weapons permits under this Code section as that enumerated in Code Section 43-38-11, based on the same grounds as those enumerated in that Code section.

(j) A weapons permit issued under this Code section to any person whose license is suspended pursuant to subsection (f) of Code Section 43-38-6 or whose registration is suspended pursuant to subsection (g) of Code Section 43-38-7 shall be suspended at the

same time as the suspension of the license or registration without a prior hearing as required in Code Section 43-38-11. A weapons permit shall be restored to a person upon the restoration of the person's license or registration.

HISTORY: Ga. L. 1973, p. 40, § 12; Ga. L. 1981, p. 1828, § 10; Ga. L. 1982, p. 3, § 43; Ga. L. 1987, p. 1400, § 10; Ga. L. 2000, p. 1161, § 5; Ga. L. 2000, p. 1706, § 19.

§ 43-38-10.1. Training instructors and training programs

(a) The board shall provide by rule and regulation for the registration of all training instructors or training programs so as to regulate all training requirements for licensure, registration, or weapons permits required by this chapter.

(b) The board shall have the authority to promulgate rules and regulations governing minimum training standards for licensure, registration, or weapons permits. Such training shall be conducted by a board registered training instructor or through a board approved training program.

(c) Any board registered training instructor or board approved training program shall be required to submit to appropriate inspection of facilities and review of curriculum.

(d) The board may suspend, revoke, or deny any application for registration for any training instructor or suspend, revoke, or deny approval of any training program as provided in Code Section 43-38-11.

HISTORY: Code 1981, § 43-38-10.1, enacted by Ga. L. 1987, p. 1400, § 11.

§ 43-38-11. Denial, revocation, or sanction of licenses and registrations; action by board; judicial review

(a) The board shall have the authority to refuse to grant a license or registration to an applicant therefor or to revoke the license or registration of a person licensed or registered by the board or to discipline a person licensed or registered by the board upon a finding by a majority of the entire board that the licensee, registrant, or applicant has:

(1) Failed to demonstrate the qualifications or standards for a license or registration contained in this chapter or the rules or regulations under which licensure is sought or held. It shall be incumbent upon the applicant to demonstrate to the satisfaction of the board that he meets all the requirements for the issuance of a license or registration and, if the board is not satisfied as to the applicant's qualifications, it may deny a license or registration without a prior hearing; provided, however, that the applicant shall be allowed to appear before the board if he so desires;

(2) Made any false statement or given any false information in connection with an application for license or registration, including an application for renewal or reinstatement thereof;

(3) Knowingly violated this chapter or violated any rule or regulation promulgated by the board pursuant to the authority contained in this chapter;

(4) Been convicted, in the courts of this state or of the United States, or in the courts of any other state, territory, or country, of a felony, or any crime involving the illegal use, carrying, or possession of a dangerous weapon, or any crime involving moral turpitude. As used in this subsection, the term "felony" shall include any offense which if committed in this state would be deemed a felony, without regard to its designation elsewhere. For purposes of this subsection, a "conviction" shall be deemed to include a finding or verdict of guilty or plea of guilty, regardless of whether an appeal of the conviction has been sought;

(5) Been arrested, charged, and sentenced for the commission of a felony, any crime involving the illegal use, carrying, or possession of a dangerous weapon, or any crime involving moral turpitude, where:

(A) A plea of nolo contendere was entered to the charge;

(B) First offender treatment was granted without adjudication of guilt pursuant to the charge; or

(C) An adjudication or sentence was otherwise withheld or not entered on the charge.

The plea of nolo contendere or the order entered pursuant to Article 3 of Chapter 8 of Title 42 or other first offender treatment shall be conclusive evidence of arrest and sentencing for such crime;

(6) Become unable to engage in the private detective or private security business with reasonable skill and safety to the public by reason of illness; use of alcohol, drugs, narcotics, chemicals, or any other type of material; or any other mental or physical condition. The board may, however, after investigation of the circumstances surrounding each application, approve for licensure and registration those individuals who produce certified medical evidence of having been successfully treated and cured of alcoholism, drug addiction, or mental illness;

(7) Committed any act in the practice of the private detective or private security business constituting dishonesty or fraud;

(8) Been convicted of impersonating, or permitting or aiding and abetting any other person to impersonate, a law enforcement officer or employee of the United States or of this state or of any political subdivision thereof in the practice of the private detective or private security business;

(9) Engaged in, or permitted any employee to engage in, the private detective or private security business without a valid license or registration issued under this chapter;

(10) Willfully failed or refused to render a service or to tender a report to a client in connection with the private detective or private security business as agreed between the parties and for which compensation was paid or tendered in accordance with the agreement of the parties;

(11) Committed a felony, any crime involving the illegal use, carrying, or possession of a dangerous weapon, or any crime involving moral turpitude;

(12) Knowingly violated, or advised, encouraged, or assisted in the violation of, any court order or injunction in the course of the private detective or private security business or knowingly advised, encouraged, or assisted in the violation of any lawful order issued by the board;

(13) Failed to renew a canceled bond or liability insurance policy in accordance with subsection (d) of Code Section 43-38-6 or failed to supply the financial affidavit required in lieu thereof;

(14) Undertaken to give legal advice or counsel; misrepresented that he is representing an attorney or is appearing or will appear in any legal proceeding; issued, delivered, or uttered any simulation of process of any nature which might lead a person to believe that such simulation, whether written, printed, or typed, may be a summons, warrant, writ, or other court process or pleading in any court proceeding;

(15) Failed to demonstrate the qualifications or standards for licensure or registration contained in this chapter or in the rules and regulations of the board. It shall be incumbent upon the applicant to demonstrate to the satisfaction of the board that he meets all the requirements for licensure or registration; and, if the board is not satisfied as to the applicant's qualifications, it shall have the power to deny such licensure or registration; or

(16) Purchased, acquired, sold, or released the telephone records, as such term is defined in Code Section 46-5-210, of any third party who is a Georgia resident.

(b)(1) If the board finds that any applicant for licensure or any prospective registrant is unqualified to be granted such license or to be registered, the board may:

(A) Deny the application for licensure or registration; or

(B) Limit or restrict any license or registration for a definite period of time.

(2) If, after notice and hearing, the board finds that the license or registration of any holder thereof should be revoked or otherwise sanctioned, the board may take any one or more of the following actions:

(A) Administer a public reprimand;

(B) Suspend any license or registration for a definite period of time;

(C) Limit or restrict any license or registration for a definite period of time;

(D) Revoke or suspend a license or registration;

(E) Fine any licensee or registrant in an amount not to exceed \$500.00 for each violation of a law or rule or regulation; or

(F) Place a licensee or registrant on probation for a definite period of time and impose such conditions of probation as will adequately protect the public during that period.

In its discretion, the board may restore or reinstate a license or registration which has been sanctioned and, in conjunction therewith, may impose any disciplinary or corrective action provided for in this chapter.

(c) Initial judicial review of a final decision of the board shall be had solely in the superior court of the county of domicile of the board.

HISTORY: Ga. L. 1973, p. 40, § 14; Ga. L. 1981, p. 1828, § 9; Ga. L. 1982, p. 3, § 43; Ga. L. 1984, p. 1338, § 3; Ga. L. 1986, p. 751, § 3; Ga. L. 1987, p. 3, § 43; Ga. L. 1987, p. 1400, § 12; Ga. L. 1992, p. 6, § 43; Ga. L. 2000, p. 1161, § 6; Ga. L. 2000, p. 1706, § 18; Ga. L. 2006, p. 562, § 4/SB 455.

§ 43-38-11.1. Suspension of license, registration, or weapons permit

(a) After proper notification, the board may suspend the license, registration, or weapons permit of any licensee, registrant, or weapons permit holder without a prior hearing as required in Code Section 43-38-11, provided that said licensee, registrant, or weapons permit holder is determined by the board to present a clear and present danger to the public safety on the grounds outlined in Code Section 43-38-11, is found to have had a prior felony conviction, or is currently under a first offender sentence for a felony crime that was not reported on the application for licensure or registration.

(b) After proper notification the board may suspend without a prior hearing as required in Code Section 43-38-11 the license of any licensee pursuant to subsection (f) of Code Section 43-38-6 or the registration of any registrant pursuant to subsection (g) of Code Section 43-38-7 or the weapons permit of any weapons permit holder pursuant to subsection (j) of Code Section 43-38-10.

HISTORY: Code 1981, § 43-38-11.1, enacted by Ga. L. 1983, p. 489, § 1; Ga. L. 1987, p. 1400, § 13; Ga. L. 1988, p. 13, § 43; Ga. L. 1991, p. 1027, § 2.

§ 43-38-12. Applicability of the "Georgia Administrative Procedure Act."

All hearings required to be conducted by the board shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; and all rules and regulations of the board shall be adopted and promulgated in accordance with Chapter 13 of Title 50.

HISTORY: Ga. L. 1981, p. 1828, § 13.

§ 43-38-13. Arrest powers of licensees and registrants

Licensees or registrants under this chapter shall have the same power of arrest as that granted to a private person by Code Section 17-4-60.

HISTORY: Ga. L. 1973, p. 40, § 13; Ga. L. 1981, p. 1828, § 11.

§ 43-38-14. Exceptions to operation of chapter; local regulation

(a) This chapter shall not apply to:

(1) An officer or employee of the United States of America or of this state or a political subdivision thereof while the employee or officer is engaged in the performance of official duties;

(2) A person engaged in the business of furnishing information in connection with credit or marketing and a person or firm engaged as a consumer reporting agency, as defined by the federal Fair Credit Reporting Act;

(3) An attorney at law or a bona fide legal assistant in performing his or her duties;

(4) Admitted insurers, agents, and insurance brokers licensed by the state while performing duties in connection with insurance transacted by them;

(5) A peace officer employed on a full-time basis by a federal, state, county, or local law enforcement agency who contracts directly with an employer to work during his or her off-duty hours and whose off-duty employment is conducted on an independent contractor basis with another employer other than a peace officer engaged in the private detective or private security business or a private detective or private security agency, subject to Code Section 16-10-3, relating to the receipt of funds by state officers or employees for the enforcement of penal laws;

(6) A firm engaged in the business of independent insurance claims adjusting whose employees hold a valid Georgia adjuster's license; or

(7) The employees of a firm mentioned in paragraph (6) of this subsection.

(b) This chapter does not apply to any person covered by Chapter 8 of Title 35, the "Georgia Peace Officer Standards and Training Act."

(c) This chapter shall not prevent the local authorities of any municipality or county, by ordinance and within the exercise of the police power of such municipality or county, from imposing local regulations upon any street patrol, special officer, or person furnishing street patrol service, including regulations requiring registration with an agency to be designated by such municipality or county.

(d) This chapter shall not apply to a person or corporation which employs persons who do private security work in connection with the affairs of such employer only and who have an employer-employee relationship with such employer. Neither such persons or corporations nor their employees shall be required to register or be licensed under this chapter, although such persons or corporations or their employees may elect to be licensed under this chapter.

HISTORY: Ga. L. 1973, p. 40, § 15; Ga. L. 1975, p. 785, § 1; Ga. L. 1978, p. 1515, § 2; Ga. L. 1981, p. 1828, § 12; Ga. L. 1982, p. 3, § 43; Ga. L. 1991, p. 1027, § 3; Ga. L. 2000, p. 1161, § 7.

§ 43-38-14.1. Restrictions on local business licenses

(a) No municipality, county, or other political subdivision of this state shall grant a business license to any person required to be licensed under this chapter until such person has made bona fide application to the board to be licensed under this chapter and the board has taken action under the application other than refusal, cancellation, revocation, or failure to renew the applicant's license.

(b) As used in this Code section, the term "person" shall mean any individual, firm, association, partnership, limited liability company, or corporation.

HISTORY: Code 1981, § 43-38-14.1, enacted by Ga. L. 1984, p. 1338, § 4; Ga. L. 1993, p. 123, § 45.

§ 43-38-15. Applicability of chapter

No individual, firm, association, company, partnership, limited liability company, or corporation shall engage in any activity covered by this chapter unless such individual, firm, association, company, partnership, limited liability company, or corporation is in compliance with this chapter.

HISTORY: Ga. L. 1981, p. 1828, § 14; Ga. L. 1993, p. 123, § 46.

§ 43-38-16. Penalty

Any person who engages in the private detective business or private security business or offers, pretends, or holds himself out as eligible to engage in the private detective business or private security business and who is not legally licensed or registered under this chapter shall be guilty of a misdemeanor. Each day or fraction of a day that he practices in violation of this chapter shall constitute a separate offense.

HISTORY: Ga. L. 1973, p. 40, § 16; Ga. L. 1981, p. 1828, § 15; Ga. L. 1984, p. 1338, § 5.

§ 43-38-17. Termination

Repealed by Ga. L. 1992, p. 3137, § 30, effective July 1, 1992.

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