

By: Tinderholt

H.B. No. 4941

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of private security.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1702.113(a), Occupations Code, is amended to read as follows:

(a) An applicant for a company license or security officer commission must be at least 18 years of age and must not:

(1) have been previously convicted of or, at the time of application, be charged under an information or indictment with the commission of a Class A or Class B misdemeanor or felony offense determined to be disqualifying by commission rule;

(2) have been found by a court to be incompetent by reason of a mental defect or disease and not have been restored to competency;

(3) have been dishonorably discharged from the United States armed services, discharged from the United States armed services under other conditions determined by the commission to be prohibitive, or dismissed from the United States armed services if a commissioned officer in the United States armed services; or

(4) be required to register in this or any other state as a sex offender.

SECTION 2. Section 1702.123, Occupations Code, is amended to read as follows:

Sec. 1702.123. INSURANCE [~~7~~-BOND]. (a) A company license

1 holder shall maintain on file with the department at all times the
2 [~~surety bond and~~] certificate of insurance required by this
3 chapter.

4 (b) The commission shall immediately suspend the company
5 license of a company license holder who violates Subsection (a).

6 (c) The commission may rescind the company license
7 suspension if the company license holder provides proof to the
8 commission that [~~the bond or~~] the insurance coverage is still in
9 effect. The company license holder must provide the proof in a
10 form satisfactory to the commission not later than the 10th day
11 after the date the company license is suspended.

12 (d) After suspension of the company license, the commission
13 may not reinstate the company license until an application, in the
14 form prescribed by the commission, is filed accompanied by an [~~a~~
15 ~~proper bond,~~] insurance certificate [~~, or both~~]. The commission
16 may deny the application notwithstanding the applicant's
17 compliance with this section:

18 (1) for a reason that would justify suspending,
19 revoking, or denying a company license; or

20 (2) if, during the suspension, the applicant performs
21 a practice for which a company license is required.

22 SECTION 3. Section 1702.127(c), Occupations Code, is
23 amended to read as follows:

24 (c) A company license holder shall maintain for inspection
25 by the department at the company license holder's principal place
26 of business or branch office a recent photograph [~~two recent color~~
27 ~~photographs~~], of a type required by the commission, of each

1 applicant, individual license holder, commissioned security
2 officer, and employee of the company license holder.

3 SECTION 4. Section 1702.163, Occupations Code, is amended
4 by adding Subsection (b-1) to read as follows:

5 (b-1) A person who is qualified under applicable federal and
6 state law to purchase a handgun based solely on the exception
7 provided by 18 U.S.C. Section 922(y)(2)(A) for a person in
8 possession of a hunting license or permit is not eligible for a
9 security officer commission.

10 SECTION 5. Section 1702.1685(c), Occupations Code, is
11 amended to read as follows:

12 (c) An applicant for a security officer commission must
13 demonstrate that the applicant passed the required proficiency
14 examination within the 12-month [~~90-day~~] period before the date the
15 application [~~security officer commission~~] is submitted [~~issued~~].

16 SECTION 6. Section 1702.230(a), Occupations Code, is
17 amended to read as follows:

18 (a) An application for an individual license must be
19 verified and include:

20 (1) the applicant's full name, residence address,
21 residence telephone number, date and place of birth, and social
22 security number;

23 (2) a statement that:

24 (A) lists each name used by the applicant, other
25 than the name by which the applicant is known at the time of
26 application, and an explanation stating each place where each name
27 was used, the date of each use, and a full explanation of the

1 reasons the name was used; or

2 (B) states that the applicant has never used a
3 name other than the name by which the applicant is known at the time
4 of application;

5 (3) the name and address of the applicant's employer;

6 (4) the date the employment described by Subdivision
7 (3) commenced;

8 (5) a request [~~letter~~] from the company license holder
9 [~~requesting~~] that the applicant be issued an individual license;

10 (6) the title of the position occupied by the
11 applicant and a description of the applicant's duties;

12 (7) the required fees, including the criminal history
13 check fee established under Section 1702.282;

14 (8) fingerprints of the applicant provided in the
15 manner prescribed by the department; and

16 (9) any other information, evidence, statement, or
17 document required by the department.

18 SECTION 7. Section 1702.301, Occupations Code, is amended
19 by adding Subsection (d) to read as follows:

20 (d) A security officer commission issued to a person who is
21 not a citizen, national, or legal permanent resident of the United
22 States or a refugee or asylee lawfully admitted into the United
23 States expires on the earlier of:

24 (1) the date determined by the commission under
25 Section 411.511, Government Code; or

26 (2) the expiration of the person's lawful presence in
27 the United States as determined by the appropriate United States

1 agency in compliance with federal law.

2 SECTION 8. Section 1702.309(b), Occupations Code, is
3 amended to read as follows:

4 (b) A commissioned security officer must demonstrate that
5 the officer passed the proficiency examination required under
6 Section 1702.1685 within the 12-month [~~90-day~~] period before the
7 date the renewal application is submitted [~~commission is renewed~~].

8 SECTION 9. Section 1702.361, Occupations Code, is amended
9 by adding Subsection (e) to read as follows:

10 (e) The commission shall revoke a security officer
11 commission if the person holding the commission has failed to
12 provide medical records or has failed to undergo medical or other
13 examinations as required by a panel of the medical advisory board
14 under Section 12.095, Health and Safety Code.

15 SECTION 10. Section 1702.364(b), Occupations Code, is
16 amended to read as follows:

17 (b) To initiate a proceeding to take action under Subsection
18 (a), the department must serve notice to the person. The notice
19 must:

20 (1) inform the person of the person's right to a
21 hearing before the department or the department's designee;

22 (2) state the basis for the summary action; and

23 (3) be personally served on the person or the person's
24 authorized representative, be [~~or~~] sent to the person by certified
25 or registered mail, return receipt requested, or be sent to the
26 person by e-mail, read receipt requested, to the person's mailing
27 address or e-mail address, as applicable, as it appears in the

1 department's records.

2 SECTION 11. Sections 1702.3867(a), (b), and (c),
3 Occupations Code, are amended to read as follows:

4 (a) A private investigator or commissioned security officer
5 executing a capias or an arrest warrant on behalf of a bail bond
6 surety may not:

7 (1) enter a residence without the consent of the
8 occupants;

9 (2) execute the capias or warrant without written
10 authorization from the surety;

11 (3) wear, carry, or display any uniform, badge,
12 shield, or other insignia or emblem that implies that the private
13 investigator or commissioned security officer is an employee,
14 officer, or agent of the federal government, the state, or a
15 political subdivision of the state; or

16 (4) notwithstanding Section 9.51, Penal Code, use
17 deadly force.

18 (b) Notwithstanding Subsection (a)(3), a private
19 investigator or commissioned security officer may display
20 identification that indicates that the person is acting on behalf
21 of a bail bond surety.

22 (c) A private investigator or commissioned security officer
23 executing a capias or an arrest warrant on behalf of a bail bond
24 surety shall immediately take the person arrested to:

25 (1) if the arrest is made in the county in which the
26 capias or warrant was issued:

27 (A) the county jail for that county if:

1 (i) the offense is a Class A or Class B
2 misdemeanor or a felony; or

3 (ii) the offense is a Class C misdemeanor
4 and the capias or warrant was issued by a magistrate of that county;
5 or

6 (B) the municipal jail for the appropriate
7 municipality if the offense is a Class C misdemeanor and the capias
8 or warrant was issued by a magistrate of the municipality; or

9 (2) if the arrest is made in a county other than the
10 county in which the capias or warrant was issued, the county jail
11 for the county in which the arrest is made.

12 SECTION 12. Article 2.12, Code of Criminal Procedure, is
13 amended to read as follows:

14 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
15 officers:

16 (1) sheriffs, their deputies, and those reserve
17 deputies who hold a permanent peace officer license issued under
18 Chapter 1701, Occupations Code;

19 (2) constables, deputy constables, and those reserve
20 deputy constables who hold a permanent peace officer license issued
21 under Chapter 1701, Occupations Code;

22 (3) marshals or police officers of an incorporated
23 city, town, or village, and those reserve municipal police officers
24 who hold a permanent peace officer license issued under Chapter
25 1701, Occupations Code;

26 (4) rangers, officers, and members of the reserve
27 officer corps commissioned by the Public Safety Commission and the

- 1 Director of the Department of Public Safety;
- 2 (5) investigators of the district attorneys', criminal
- 3 district attorneys', and county attorneys' offices;
- 4 (6) law enforcement agents of the Texas Alcoholic
- 5 Beverage Commission;
- 6 (7) each member of an arson investigating unit
- 7 commissioned by a city, a county, or the state;
- 8 (8) officers commissioned under Section 37.081,
- 9 Education Code, or Subchapter E, Chapter 51, Education Code;
- 10 (9) officers commissioned by the General Services
- 11 Commission;
- 12 (10) law enforcement officers commissioned by the
- 13 Parks and Wildlife Commission;
- 14 (11) officers commissioned under Chapter 23,
- 15 Transportation Code;
- 16 (12) municipal park and recreational patrolmen and
- 17 security officers;
- 18 (13) security officers and investigators commissioned
- 19 as peace officers by the comptroller;
- 20 (14) officers commissioned by a water control and
- 21 improvement district under Section 49.216, Water Code;
- 22 (15) officers commissioned by a board of trustees
- 23 under Chapter 54, Transportation Code;
- 24 (16) investigators commissioned by the Texas Medical
- 25 Board;
- 26 (17) officers commissioned by:
- 27 (A) the board of managers of the Dallas County

1 Hospital District, the Tarrant County Hospital District, the Bexar
2 County Hospital District, or the El Paso County Hospital District
3 under Section 281.057, Health and Safety Code;

4 (B) the board of directors of the Ector County
5 Hospital District under Section 1024.117, Special District Local
6 Laws Code;

7 (C) the board of directors of the Midland County
8 Hospital District of Midland County, Texas, under Section 1061.121,
9 Special District Local Laws Code; and

10 (D) the board of hospital managers of the Lubbock
11 County Hospital District of Lubbock County, Texas, under Section
12 1053.113, Special District Local Laws Code;

13 (18) county park rangers commissioned under
14 Subchapter E, Chapter 351, Local Government Code;

15 (19) investigators employed by the Texas Racing
16 Commission;

17 (20) officers commissioned under Chapter 554,
18 Occupations Code;

19 (21) officers commissioned by the governing body of a
20 metropolitan rapid transit authority under Section 451.108,
21 Transportation Code, or by a regional transportation authority
22 under Section 452.110, Transportation Code;

23 (22) investigators commissioned by the attorney
24 general under Section 402.009, Government Code;

25 (23) security officers and investigators commissioned
26 as peace officers under Chapter 466, Government Code;

27 (24) officers appointed by an appellate court under

1 Subchapter F, Chapter 53, Government Code;

2 (25) officers commissioned by the state fire marshal
3 under Chapter 417, Government Code;

4 (26) an investigator commissioned by the commissioner
5 of insurance under Section 701.104, Insurance Code;

6 (27) apprehension specialists and inspectors general
7 commissioned by the Texas Juvenile Justice Department as officers
8 under Sections 242.102 and 243.052, Human Resources Code;

9 (28) officers appointed by the inspector general of
10 the Texas Department of Criminal Justice under Section 493.019,
11 Government Code;

12 (29) investigators commissioned by the Texas
13 Commission on Law Enforcement under Section 1701.160, Occupations
14 Code;

15 (30) ~~[commission investigators commissioned by the~~
16 ~~Texas Private Security Board under Section 1702.061, Occupations~~
17 ~~Code,~~

18 ~~[(31)]~~ the fire marshal and any officers, inspectors,
19 or investigators commissioned by an emergency services district
20 under Chapter 775, Health and Safety Code;

21 (31) ~~[(32)]~~ officers commissioned by the State Board
22 of Dental Examiners under Section 254.013, Occupations Code,
23 subject to the limitations imposed by that section;

24 (32) ~~[(33)]~~ investigators commissioned by the Texas
25 Juvenile Justice Department as officers under Section 221.011,
26 Human Resources Code; and

27 (33) ~~[(34)]~~ the fire marshal and any related officers,

1 inspectors, or investigators commissioned by a county under
2 Subchapter B, Chapter 352, Local Government Code.

3 SECTION 13. Section 12.095(e), Health and Safety Code, is
4 amended to read as follows:

5 (e) The panel may require the applicant or license holder to
6 undergo a medical or other examination at the applicant's or
7 holder's expense. A person who conducts an examination under this
8 subsection may be compelled to testify before the panel and in any
9 subsequent proceedings under Subchapter H, Chapter 411, Government
10 Code, Subchapter O, Chapter 1702, Occupations Code, or Subchapter
11 N, Chapter 521, Transportation Code, as applicable, concerning the
12 person's observations and findings.

13 SECTION 14. Section 12.097(b), Health and Safety Code, is
14 amended to read as follows:

15 (b) In a subsequent proceeding under Subchapter H, Chapter
16 411, Government Code, Subchapter O, Chapter 1702, Occupations Code,
17 or Subchapter N, Chapter 521, Transportation Code, the department
18 may provide a copy of the report of the medical advisory board or
19 panel and a medical record or report relating to an applicant or
20 license holder to:

- 21 (1) the Department of Public Safety of the State of
22 Texas;
- 23 (2) the applicant or license holder; and
- 24 (3) the officer who presides at the hearing.

25 SECTION 15. Sections 1702.125 and 1702.368, Occupations
26 Code, are repealed.

27 SECTION 16. Sections 1702.113(a), 1702.1685(c),

1 1702.230(a), and 1702.309(b), Occupations Code, as amended by this
2 Act, and Section 1702.163(b-1), Occupations Code, as added by this
3 Act, apply only to an application for the issuance or renewal of a
4 license or security officer commission submitted on or after the
5 effective date of this Act. An application submitted before the
6 effective date of this Act is governed by the law in effect on the
7 date that application was submitted, and the former law is
8 continued in effect for that purpose.

9 SECTION 17. This Act takes effect September 1, 2023.