

House Bill 1441 (AS PASSED HOUSE AND SENATE)

By: Representatives Collins of the 68th, Gravley of the 67th, Hitchens of the 161st, Gaines of the 117th, and Crowe of the 110th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to
2 operators of private detective businesses and private security businesses, so as to exempt a
3 certified peace officer employed by a licensed private detective businesses or private security
4 business as an independent contractor from requirements of such chapter; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to operators of
9 private detective businesses and private security businesses, is amended by revising Code
10 Section 43-38-7, relating to licensing of armed employees, qualifications, continuing
11 education, fingerprints, license card, and suspension, as follows:

12 "43-38-7.

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

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

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

22 ~~(B) Any potential licensee currently certified by the Georgia Peace Officer Standards
23 and Training Council as having successfully completed the course training required by
24 Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act,' shall be
25 authorized to serve as a guard, watchman, or patrolman, provided that an application
26 to be licensed by the board pursuant to this Code section is submitted no later than 60
27 days from the start of employment.~~

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

32 (A) Is at least 18 years of age;

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

34 (C) Is of good moral character;

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

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

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

45 ~~(2) The board shall accept certification by the Georgia Peace Officer Standards and~~
46 ~~Training Council as having successfully completed the course training required by~~
47 ~~Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act,' as~~
48 ~~evidence that subparagraph (B) of paragraph (1) of this subsection has been satisfied.~~

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

54 (d) The license application shall be made under oath and on a form to be furnished by the
55 division director. The application shall state the applicant's full name, age, and date and
56 place of birth; residences and employment within the past five years; experience in the
57 position applied for or held; the date and place of conviction or arrest for any crime,
58 including the entry of a plea of nolo contendere or the entry of a plea entered pursuant to
59 Article 3 of Chapter 8 of Title 42 or other first offender treatment; and such other
60 information as the board may require. The license application shall be accompanied by two
61 sets of fingerprints of the applicant, ~~except for those applicants who are currently certified~~
62 ~~by the Georgia Peace Officer Standards and Training Council as having successfully~~
63 ~~completed the course training required by Chapter 8 of Title 35, the 'Georgia Peace Officer~~
64 ~~Standards and Training Act,' and one photograph of the applicant, two inches wide by three~~
65 ~~inches high, full face, and taken within six months prior to the application. The board shall~~
66 ~~have discretion to deny a license to any individual when the information and supporting~~
67 ~~documentation required by this subsection are not provided.~~

68 (e) ~~Any applicant currently certified by the Georgia Peace Officer Standards and Training~~
69 ~~Council as having successfully completed the course training required by Chapter 8 of Title~~

70 ~~35, the 'Georgia Peace Officer Standards and Training Act,' shall be authorized to serve as~~
71 ~~a guard, watchman, or patrolman during any period of time awaiting a decision of the board~~
72 ~~to grant or deny a license pursuant to this Code section.~~ Upon granting a license pursuant
73 to this Code section, the board shall so notify the licensee. An employer shall notify the
74 board within 30 days of the hiring or termination of employment of any employee licensed
75 under this Code section.

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

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

87 **SECTION 2.**

88 Said chapter is further amended by revising Code Section 43-38-14, relating to exceptions
89 to operation of chapter and local regulation, as follows:

90 "43-38-14.

91 (a) This chapter shall not apply to:

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

- 95 (2) A person engaged in the business of furnishing information in connection with credit
 96 or marketing and a person or firm engaged as a consumer reporting agency, as defined
 97 by the federal Fair Credit Reporting Act;
- 98 (3) An attorney at law or a bona fide legal assistant in performing his or her duties;
- 99 (4) Admitted insurers, agents, and insurance brokers licensed by the state while
 100 performing duties in connection with insurance transacted by them;
- 101 (5) A firm engaged in the business of independent insurance claims adjusting whose
 102 employees hold a valid Georgia adjuster's license; ~~or~~
- 103 (6) The employees of a firm identified in paragraph (5) of this subsection; ~~or~~
- 104 ~~(b)(7)~~ (7) Any person with a valid peace officer certification issued pursuant to Chapter 8
 105 of Title 35, the 'Georgia Peace Officer Standards and Training Act,' who is employed by
 106 or works as an independent contractor for a licensed:
- 107 ~~(1) Private private security business shall be exempt from any training provisions~~
 108 ~~required by this chapter for such business and shall be deemed to have satisfied all board~~
 109 ~~rules and regulations relative to training; and~~
- 110 ~~(2) Private or private detective business or private security business shall be exempt from~~
 111 ~~further licensure under this chapter and shall be permitted to carry a firearm without~~
 112 ~~obtaining any weapons permit from the board; provided, however, that such licensed~~
 113 ~~private detective business or private security business shall be required to register such~~
 114 ~~employee or independent contractor with the board.~~
- 115 ~~(c)(b)~~ (b) This chapter shall not prevent the local authorities of any municipality or county,
 116 by ordinance and within the exercise of the police power of such municipality or county,
 117 from imposing local regulations upon any street patrol, special officer, or person furnishing
 118 street patrol service, including regulations requiring registration with an agency to be
 119 designated by such municipality or county.
- 120 ~~(d)(c)~~ (c) This chapter shall not apply to a person or corporation which employs persons who
 121 do private security work in connection with the affairs of such employer only and who have

122 an employer-employee relationship with such employer. Neither such persons or
123 corporations nor their employees shall be required to register or be licensed under this
124 chapter, although such persons or corporations or their employees may elect to be licensed
125 under this chapter."

126 **SECTION 3.**

127 All laws and parts of laws in conflict with this Act are repealed.